



**SENEGAL**  
**INVESTOR'S ROADMAP**

MARCH 1999

**Foreign Investment Advisory Service**  
Joint Service of the International Finance Corporation (IFC)  
and  
The World Bank (IBRD)

This report was prepared by the Foreign Investment Advisory Service (FIAS) at the request of the Ministry of Economy, Finance and Planning of Senegal. It covers both foreign and internal investment in order to identify the administrative and bureaucratic barriers faced by new investors in Senegal. The project was jointly financed by USAID resident mission in Dakar. The field research was conducted in September 1998. A draft report was presented and discussed in a workshop held in Dakar on February 8-9, 1999. FIAS would like to thank all the people in the government as well as in the private sector who have taken time to examine with the team the different procedures for investment in Senegal.

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## **EXECUTIVE SUMMARY**

i. Over the last few years, Senegal has undertaken a certain number of reforms aimed at liberalizing its economy in order to create an enabling environment for the development of its private sector. The reforms concerned the liberation of its trade, the deregulation of its domestic market, a program of privatization (namely of the trunk infrastructures) and naturally the devaluation of the CFA franc undertaken with the other countries of the region. Other initiatives are in progress such as the legal reforms conducted in the framework of the Harmonization of the Business Laws (OHADA) and the establishment of the Customs Union which, among other things, will institute a common Investment Code for the countries of the West African Economic and Monetary Union (WAEMU).

ii. Despite these improvements, the response of private investors has been timid so far. Foreign direct investment inflows in particular, have been disappointing and focussed on a limited number of transactions related to the privatization program. Many neighboring countries have derived more benefits from the devaluation and from similar reforms in terms of investment flows and economic growth.

iii. A reason for the lack of success of the Senegalese reform program seems to be deterrents that still affect the investment climate. In order to identify and assess these problems, FIAS decided to concentrate its attention on the experience that existing or potential private investors have had in the country. Indeed, there are a large number of economic factors that may have an impact on the competitiveness of the Senegalese economy, but the administrative environment is the one that can be improved in the short term as it is directly controlled by the authorities and depends on the established legal and institutional framework.

iv. This survey intends to examine the administrative obstacles to investment, namely those encountered by companies that want to settle and operate in Senegal. We have presented in detail these obstacles at each stage according to the present rules and regulations. This approach enables to identify a certain number of constraints that may not be important when taken separately but when put together, contribute to making the tasks of the investors difficult, costly and uncertain.

### **General formalities**

v. The first formality for the majority of investors, except those doing business in commerce, is to go to the One-Stop-Shop in order to benefit from the advantages described in the Investment Code or those of the system of duty free companies. The GOS original idea when creating a One Stop Shop similar to those instituted in many countries, was to have a center of formalities where they would be handled in a rapid and efficient manner. However, the Shop has so far been more of an additional hurdle than an assistance to new investors. The

information requested are complicated and cause much delay. Even though the majority of the documents provided to the One -Stop-Shop are processed in less than ten days, this does not mean the end of the approval process. The license must in fact, be signed by the Minister and registered by the Secretariat of the Government. Once the ministerial order is issued, a list of equipments must be approved separately to certify that the items on the list are exempted from customs duties.

vi. Though it is possible to streamline the One-Stop-Shop procedures, this action would undoubtedly have but a limited impact on the whole system as the latter would still depend on decisions taken by other services. For example, the Customs must approve the list of exempted equipments, and the items they approve are not necessarily the ones authorized by the Shop. Furthermore, there are several sector licenses given by the relevant ministries; and this contributes to the duplication of the formalities that companies must comply with.

vii. The problems identified at the One-Stop-Shop, i.e the deadlines, an inefficient bureaucracy, and lack of capability to help the investors comply with the procedures, among others, are unfortunately typical in countries where the current Investment Code is based on a complex and obsolete tax incentive structure. The Senegalese Code should mainly be composed of measures that are automatically applied without the requirement of a detailed assessment of projects before their implementation, but an *ex post* assessment of their performance. On the whole, tax incentives should be included in the Customs and Tax Code, following the example of the zero tariff on capital goods of the new WAEMU Customs Code. The One-Stop-Shop and the Customs authorities would therefore no longer need to approve the list of the imported products. It should however, be pointed out that Senegal is not totally independent in that code reform effort which is discussed at the WAEMU regional level, even though it can use its position to influence the on going negotiations.

viii. Likewise, the registration of companies involves a considerable number of procedures and delays. The investor must first register the company charter and by-laws with the tax authorities, then at the Commercial Court where there are three separate stages. The procedures could be simplified by eliminating the obligation to register at the Tax Department, and by combining the three consecutive formalities at the Court Registrar. Finally, the planned computerization of the Court operations will improve its efficiency;

ix. All companies must successively register at the tax, labor, statistics, and social security departments, each of which issues a different registration number. Since there is a one to two week deadline for each registration, the overall process can take up to 6 weeks. There is no explanation for the length of these procedures since they are mere registrations which do not require any assessment or processing by the authorities of the documents. A single day should be sufficient for those registrations which should be centralized in one department. Many countries have a single registration number, and Senegal should adopt this system.

x. The Chamber of Commerce, Industry and Agriculture of Dakar (CCIAD) recently took the initiative to create a Company Formality Center whose objective is to provide all services to companies which want to register, including the formalities of the Commercial Court. The Center should use a single form, which would permit to do all the registrations in less than a week. This Center would indeed be a significant progress, but it would not solve the real problem of separation of procedures. The civil service departments should cooperate by

transmitting passing on the information to each other by using a common registration number. Each department should take the necessary steps to improve its own performance.

xi. Foreign companies must still comply with several additional general formalities like, for example, register at the Central Bank, obtain visas for their expatriate executives and technicians, and register their licenses and patents. These rarely cause problems, even if much time is often wasted to obtain identity cards for the foreign residents and to register the trademarks and licenses.

### **Special formalities**

xii. Beside the above mentioned formalities, companies operating in special sectors are subjected to several controls and must obtain many licenses. A particular study was conducted in this regard by the Dakar Technopole in the tourist, mining, industrial, financial, fishing, and leather sectors.

xiii. In fisheries and mining, the government is first and foremost preoccupied by the management of the natural resources and the limitation of new companies through the definition of exploitation rights. Those legitimate objectives can be attained with more transparent means like auctioning the quotas or exploitation rights. In the sectors of industry and technology, the authorities intervene to distribute additional tax incentives through the issuance of licenses. This practice should consequently be eliminated in favor of the generalized routine system since it introduces some discretion and constitutes an open door for excesses. Financial activities are regulated at the regional level by the Central Bank of the West African States (WACB). The latter approves the establishment of new banks, insurance companies and other financial institutions. In the sector of tourism, the procedure for licencing the guides, travel agents or the establishment of new quality hotels should be rationalized.

xiv. For procedures required in general as well as in sectors, there still is a wide discretionary power in the enforcement of laws and regulations. The large number of controls, which often consist in a simple registration or signature, gives the mid level civil servants an opportunity to intervene and request payments to facilitate the processing of documents. The practice is generalized in the entire system and inspectors often pay informal visits to companies. The reputation of the services is therefore tarnished. It is worth mentioning that the practice is facilitated by the complex and cumbersome system which renders any control very difficult.

### **Land access and site development**

xv. Access to land property and other primary infrastructures, and the construction of buildings are often difficult in Senegal. A priori, it seems quite easy to obtain land title since there is no restriction on access to property for foreigners and because of the possibility to have a long term lease or buy land from the state. However, in practice, it is often difficult to make the most of those opportunities because of the complex procedures which require considerable delays. It takes at least six months to purchase land from the state; and one is obliged to make many visits to the Land Office and Land Registry Center. Similarly, the sale of private land can be delayed because of the necessity to obtain the approval of the Tax Department, and of the very limited availability of land.

xvi. Investors can also face many problems in dealing with construction permit and environment control services. There are many forms to fill out which look alike and are difficult to understand for both the investors and the government services. Furthermore, the recent decentralization of services has increased the problems because of the limited technical and institutional capacity of the local governments. The decentralization must be associated

with the reinforcement of those services in order to avoid additional deadlines and to enable a efficient processing of the documents.

xvi. Access to utilities was improved by the program of privatization, in particular of SONATEL, the telephone company. However, access to electricity remains a serious problem because the delays are considerable and the cost excessive especially when the company's needs require an extension of the existing network. Water supply in Dakar, recently privatized, has not yet improved. Even though these problems seldom constitute a major constraint for new companies in Senegal, and this is indeed a positive factor in comparison to the other countries of the region, the quality of and access to utilities must be enhanced. In this regard, the rapid privatization of SENELEC, that is scheduled, seems to be a necessity.

### **Operational formalities**

xvii. Once the company starts its operations, it must meet a certain number of additional requirements generally related to the import-export transactions, labor and social security, and access to foreign currencies.

xviii. The measures related to the transactions in foreign currencies are determined to a large extent by the fact that Senegal is a member of the West African Economic and Monetary Union. The Union guarantees free convertibility in the CFA zone and places a number of formality constraints out of the zone. The Ministry of Finance remains however, responsible for the management of the foreign currency accounts and transfers of capital out of the CFA zone. The restrictions on opening foreign currency accounts were recently eliminated. The business environment would be more attractive if for example, the necessary authorizations for the transfer of profits and restrictions on investment were abolished. Those are controlled by the the Ministry of Finance and can be simplified.

xix. All companies involved in international transactions are obliged to register at the Directorate of External Trade. The Directorate rationalized the procedures for the issuance of import-export cards. They can now be obtained in one day thanks to the delegation of power of signature. However, this formality could be entirely eliminated as it constitutes an additional step with no particular function, which does not go along the line of a free international trade policy.

xx. Customs procedures for the declaration of imported goods are lengthy and complex, and can take up to several weeks. The main cause of delay is undoubtedly the assessment of the value of the imported goods that is a cause of disputes, and re-assessments, even after the visits of the customs officers. In order to improve the system, the Customs should reduce the discretionary power of their inspectors and put in place simple and independent appeal mechanisms.



xxi. The overlapping of competence of the One Stop Shop and the Customs to determine the list of exempted goods is a major problem for many companies. The two departments issue separate lists of the approved products. In fact, it is the very nature of the Senegalese control procedure which must be questioned. The new customs tariff structure proposed by WAEMU,

with zero rates for most capital goods, should discard the need for those exemptions for most companies.

xxii. The recent Labor Code reforms permitted to resolve a large number of the problems companies were facing with in Senegal. The authorization to fire employees were relaxed by a consultation and warning system. Nevertheless, the complex formalities expatriates have to comply with to obtain work permits must be abolished or simplified.

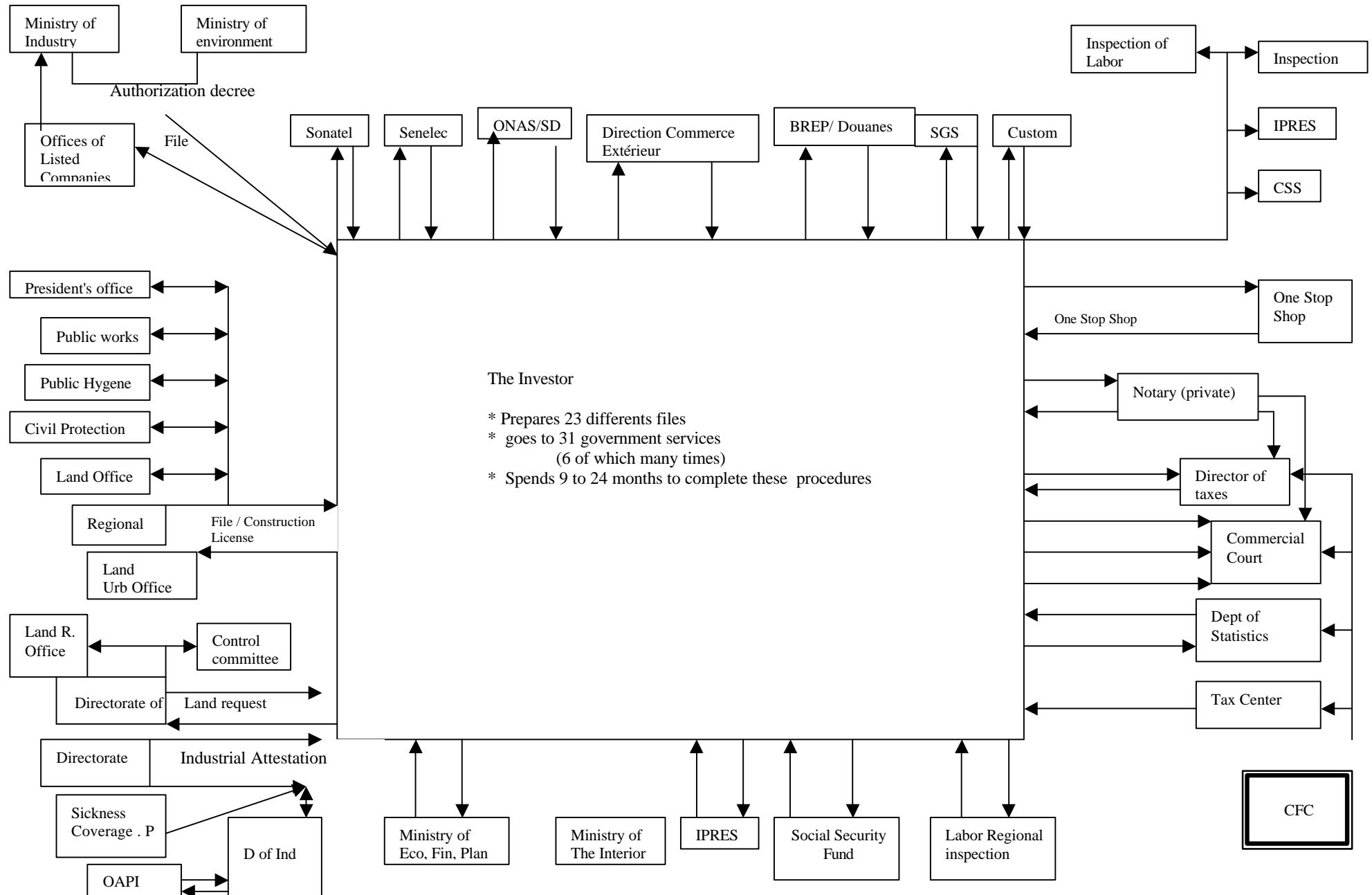
xxiii. Figure X-I is a flow diagram indicating the road a foreign manufacturing company must take if it wishes to establish itself in Senegal. On the whole, the main obstacles consist in: first, access to public land, secondly, eligibility for the tax incentives under the Investment Code. Most of the other formalities can be improved through a simplification of the existing system, either by eliminating some permits and licenses, or by reducing the number of official documents, or by enhancing the cooperation among the departments involved, or by providing a more appropriate orientation to companies. In many cases, it is simply a matter of doing away with the formalities which have no reason for being maintained in the new policy implemented by the Government to promote the private sector.

xxiv. Today, the minimum time necessary to establish a company is about 9 months. This can easily be extended to 24 months. The objective of the authorities should be to reduce this time, and the associated costs, through an improved performance of the civil service departments and less formalities. A concerted action of many civil service departments is necessary to reduce the heavy procedures which the companies that wish to invest in Senegal must follow. This measure may bring about a defense reaction by certain civil servants, in particular when they are given some discretionary power by existing laws. However, only coordinated actions, not always trivial, will indeed enable a significant improvement of the whole system.

xxv. The reform of the bureaucratic procedures will involve a number of Government agencies and require their cooperation within the civil service. This will involve a review of economic policies and laws. In many countries where this type of reform has been successful, the initiative to support and give an orientation to the process was taken by the Government Cabinet. Senegal is currently preparing a high level seminar to design a private sector development strategy in general. We hope that the conclusions of this report will inform the seminar, and that the results of the seminar will contribute to lifting the obstacles on the investors' road.

xxvi. Annex A gives an account of the presentation of this report to the public and private sectors on February 8-9 1999 in Dakar.

**Figure X-1 Roadmap of the Investor : the foreigner in Industry**



## CHAPTER I

### INTRODUCTION

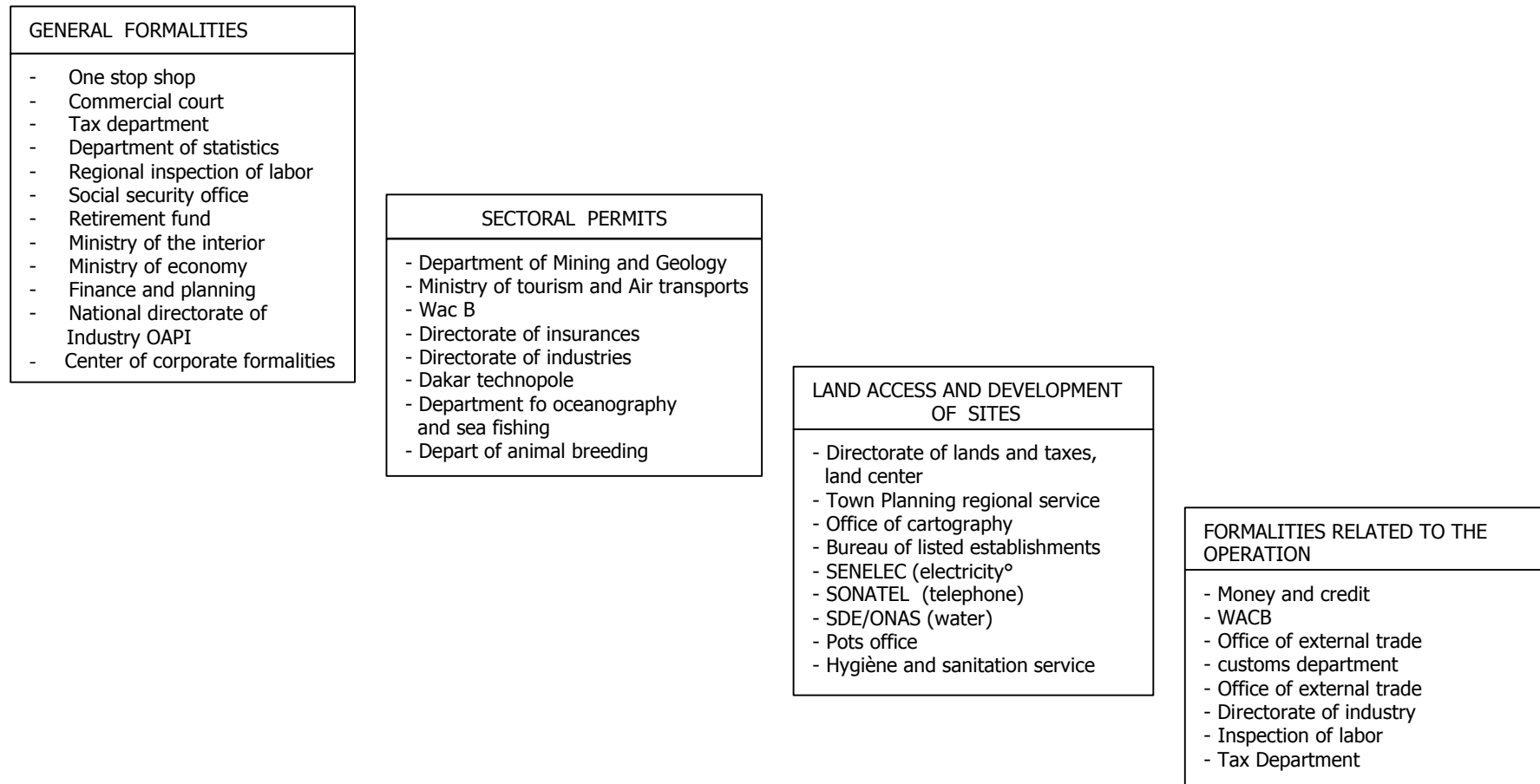
1. This report tries to identify the administrative and bureaucratic barriers to investment in Senegal. Its objective is to assist in creating an environment favorable to the expansion of the private sector through a survey of the various constraints and procedures encountered by potential investors in the country at time when the government has initiated a program of reforms destined to liberalize the economic environment and stimulate the contribution of the private sector. However, as in many other countries, this liberalization process has still not produced the expected results in terms of increased investments. Though the efforts undertaken are commendable and indispensable, there still remain a certain number of obstacles.

2. Over the last few years, the Government has undertaken significant reforms under the umbrella of the World Bank PASCO project. They include the liberalization of foreign and domestic trade, the deregulation of the domestic market, the effort to promote exports and investments, and the reforms of the labor and transport market to cut down production costs. These measures were accompanied by a liberalization of agriculture markets and a reform of the public sector which involved a program of privatization. In addition, the CFA franc was significantly devalued, which permitted an adjustment of local goods and services. Despite these efforts, there was a limited increase in investments, in particular foreign investment flow has remained modest except for the privatization programs. The formal sector lacks dynamism because the foreign and domestic investors are cautious and prefer to delay their expansion plans or new projects.

3. There are many reasons for this lack of reaction from private investors, but to a certain extent, they are due to the numerous problems that still affect the investment climate of the country. This report aims at identifying the obstacles raised by the administrative procedures, namely the permits and licenses necessary for new investors. Its objectives are to make a detailed description of the roadmap for the prospective investors.

4. For analysis purposes, the roadmap of the investor is divided into 4 consecutive stages, which correspond to the chapters of this report : The general licenses obligatory for all new investment projects; the special licenses requested for certain sectors or types of activities, the permits necessary before developing the sites (land, building, infrastructure, etc...) and the approval needed by the company when it starts its operations. Figure 1.1 describes the different government departments and institutions involved at each stage.

**Figure 1.1 : The Civil Service Departments in the Investment Process**



5. The methodology of the report is that used by FIAS in many other countries such as Ghana, Namibia, Swaziland, Jordan, Mozambique, Madagascar, and Mali. The first stage very precisely documents all the licenses new companies must obtain to start their operations in compliance with the current laws and regulations. This will enable us to make a complete list of all the permits and licenses, as well as the procedures and how they are implemented. The fees and commissions to be paid are indicated as well as the deadlines, even though we give an average since they vary significantly from one project to another. Annex A contains copies of the main forms companies must fill out when they are provided by the civil service departments.

6. Based on this information, the constraints to investment are identified and discussed in order to make recommendations. The latter in some cases, are specific and directly address the procedures in question; in others, they are more general and suggest new paths to be explored. In any case, our objective is to encourage the concerned public service departments and institutions to improve their performance. This effort sometimes requires a change of mentality from a suspicious and authoritative approach to the private sector to a supervisory and supportive approach within the scope of the existing laws and regulations.

7. This exercise is done from the viewpoint of foreign investors, but the difference between their treatment and that of the local investors are pointed out in the report. Foreign investors are more likely to be discouraged by a complex system of administrative procedures since they are subjected to more stringent administrative rules by their companies. They are also less familiar with the local authorities and less experienced with the system. However, most of the constraints identified concern both the local and foreign investors, and represent additional costs for anyone who wishes to do business in the country.

8. The research was naturally concentrated in Dakar where most of those laws are enforced despite the efforts that had been made over the last few years to decentralize the central administration.

9. The objective of this exercise is to motivate the relevant public services to simplify and improve their procedures in order to promote private investment. The recommendations made by FIAS are only suggestions destined to invite the authorities to think over their role and to act. In this regard, a workshop is scheduled after the completion of this report to enable the parties to discuss the problem identified and to make the necessary decisions.

10. Most of the constraints identified do not seem very important when taken individually. However, together they represent a series of barriers which may delay and prevent an investment project in the country. The obstacles also contribute to sending contradictory messages to investors on the true intention of the Government which does not seem to be interested in the real problems of the companies. Each public service or institution may have the impression that its role is not important as regards all the procedures, but the participation of all concerned parties is necessary to improve the whole system. With no attention to the details, the impact of the current general reforms on the economic growth may be reduced, which would jeopardize the liberalization efforts made by the government.

11. Administrative obstacles slow down the pace of economic development as can be evidenced in Senegal with the following examples:

- Persistent and inflexible barriers between the formal and informal sectors : If the administrative barriers do not constitute the only factor explaining the growth of the informal sector, the existence of stringent rules leads to additional cost for a company operating in the official sector;
- Few investments with 100% of foreign capital : It is generally indispensable for foreign investors to have local partners or intermediaries in order to understand and negotiate the different licenses. Almost no foreign company is a sole investor in Senegal, even if this was its first intention. The impact on the investment flow cannot but be negative considering that many multinational corporations do not use local partners.
- Low rate of implementation of new projects : The latter can be abandoned for various reasons, but the low rate of implementation indicates that the investors are faced with some problems when following the procedure in order to implement their projects. According to a preliminary enquiry, the rate of implementation seems very disappointing.
- Emphasis on project selection rather than registration and law enforcement : In most of the countries which have a long history of state intervention in the economic environment, the use of control and selection procedures on the private investments reflect a distrust of the private sector and institutional weakness to actually monitor the private companies once they start to operate. International experience indicates that it is more advantageous to supervise the respect of the laws by companies in order to promote private initiative and ensure a better allocation of State resources.
- Corruption : This is facilitated by the existence of a large number of undetermined administrative barriers. Very often, they contribute to increase the discretionary power of the authority, and to encourage the promoters to bypass them.
- Strained relations between the private and the public sectors : The authorities tend to think that the private sector businessmen are individuals who seek to avoid paying them and fulfilling their obligations or trying to benefit from their protection. On the other hand, the entrepreneurs have a negative image of the government who mainly aims at ruining their interests and using them as a source of funds to achieve their political ambitions. This lack of understanding and distrust between the public and private sectors seems to exist in Senegal, even though it appears that the recent co-operation initiatives between the two sectors have started giving good results.

12. The above described signs are quite widespread in Africa, and are not found only in Senegal. They reflect the influence of a certain number of factors which are beyond the existence of complex bureaucratic and administrative procedures. However, the latter act as a brake upon investment, and in an uncertain macro economic environment, seriously prevent the expansion of the private sector and that of the Senegalese economy in general.

## CHAPTER II

### GENERAL FORMALITIES

13. In Senegal, a prospective investor must comply with convoluted administrative formalities. This chapter intends to examine those which are obligatory for all companies with a special attention to the registration of companies, the issuance of investment approvals, the tax registrations, and the procedures required to benefit from existing incentives. Furthermore, because foreign investors are subject to additional steps, they are interested in the formalities necessary to obtain registration certificates, work permits and other official documents. All the general formalities are summarized in Table 2.1 and presented in a chart in Figure 2.1.

14. Broadly speaking, investors must provide about the same type of information for each formality. That is why the Corporate Formality Center in the process of being established by the Dakar Chamber of Commerce Industry and Agriculture should centralize all the data requested in a single application form. Another recent initiative at the regional level, is the revision of the Investment Code which should be an opportunity to offer a small number of tax incentives to the qualified projects. At the institutional level, a new Agency for the Promotion of Investment could replace the One Stop Shop and be given the responsibility to enforce the Code. These examples show that the authorities are trying to improve the current system, and that because the results of these efforts are not yet tangible, this section will deal with the present formalities in Senegal.

#### A The Investment Code and Status of Export Free Company

##### **One Stop Shop**

(Le Guichet Unique)

Ministry of Economy, Finance and Planning

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9th floor

B.P 4017

Dakar

Tel : 823 67 27

Fax : 823 30 98

**Table N° 2.1**  
**General formalities**

<b>FORMALITIES</b>	<b>INSTITUTIONS</b>
<i>Preliminary Approvals</i>	<i>One Stop Shop</i>
Investment Code	
Status of Export Free Company	
Company Incorporation	
Declaration of conformity	Commercial Court
Registration of the company charter and by-laws	
Trade Register	Commercial Court
<i>Registration Procedures</i>	
Company National Identification Number (NINEA)	Department of Statistics
Taxpayer's account number	Tax Department
Indirect tax identification number (NITI)	National General Office of Lands and Taxes
Declaration of company establishment	Regional Labor Inspection
Affiliation to the Social Security Fund (CSS)	Department of Social Security
Affiliation to the Pension Fund (IPRES)	Pension Fund (IPRES)
<i>Other formalities</i>	
Foreigner's identity card	Ministry of the Interior
Declaration of foreign investment	Ministry of Economy, Finance and Planning
Registration of Licenses and Intellectual Property	African Organization of Intellectual Property (OAPI)
Subscription of Employees to a Medical Coverage Program (IPM)	Medical Coverage Providers (IPM)



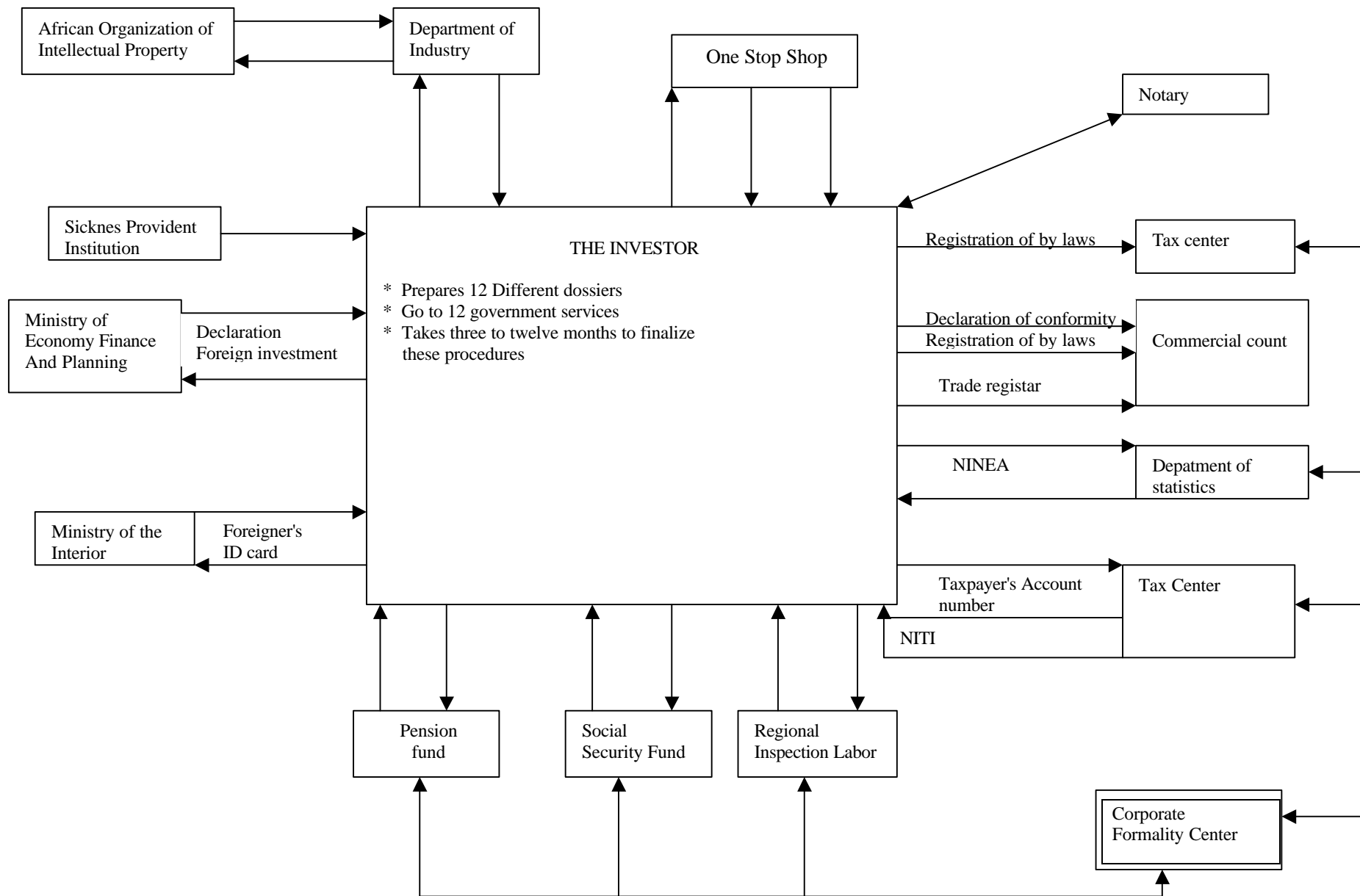
15. Companies that want to benefit from the advantages of the Investment Code (laws 87-1581 and its amendements) or from the status of Export Free Company must make a application to the One-Stop-Shop the Ministry of Economy, Finance and Planning. Generally, most of the industrial companies, those doing business in services, agriculture, and activities other than commerce are eligible according to the Code. Up to now, approval has above all meant for companies a means of obtaining tax incentives for their capital goods and profits.

16. Exemptions from all duties and taxes on production inputs including VAT for local products, and from the flat contribution on paid salaries, subsidies for job creation, and exemption from the minimum flat tax and business taxes are among the main advantages of the Code. In principle exemptions are granted for two or three years for the approved equipment and materials, and for 5 or 12 years for the other advantages depending on the location and the type of company. The favored types of companies are the Medium and Small Sized Enterprises (MSE), those promoting local resources or promoting technological innovation or the decentralization of their activities, and the purchase of foreign assets by Senegalese nationals.

17 Every investor must submit a weighty and complex documents. This practice is common in the countries whose Investment Code include a large number of tax incentives based on specific criteria. However, the files in Senegal are imposing even compared with those of the other countries. The following document are requested :

- an application for approval addressed to the Minister of Economy, Finance and Planning c/o the Head of Service of the One-Stop-Shop;
- four copies of the " list of equipments and materials " form,
- ten copies of the feasibility study comprising :
  - presentation of project and of the promoter;
  - market study;
  - technical study;
  - economic and financial study;
  - operating account ( 5 years);
  - four authenticated copies of the company by laws;
  - two authenticated photocopies of the identity cards of the individuals participating in the capital;
  - four authenticated copies of the certificate of registration of the trade register;
  - two authenticated copies of the declaration of registration at the trade registry;
  - four declarations of company establishment made by the employer;
  - ten copies of the list of the equipments and materials;
  - a CFA franc 1,000 revenue stamp for the registration at the tax payer's account;
  - two stamped envelopes with the name of the promoter;
  - a ream of photocopying paper.

FIGURE 2.1 : GENERAL FORMALITIES



18. The One-Stop-Shop gives the promoter 12 forms to fill out. In addition to these documents of general nature, the promoter must obtain other approvals given by the relevant Ministries. To that end, the following information must be provided :

For agricultural projects :

- land occupation title.

For tourism projects :

- approval of the Ministry of Tourism;
- architectural plans approved by an accredited architect.

For project related to education and health :

- approval of the relevant Ministry.

For companies promoting technological innovation

- a contract signed by a Senegalese research institution;
- a minimum of 1% invested in research, or
- an investment program aimed at exploiting the results of Senegalese researchers.

19. Companies promoting local resources must prove that at least 65% of the raw materials they use originate in Senegal.

20. Upon receiving the promoter's application, the One Stop Shop has a statutory 10 day maximum deadline to give an answer, or 30 days when other institutions are involved. The acknowledgement of receipt enables to determine the date the documents were submitted. The approval order is signed by the Minister and must be available, in principle, one month after the date of the acknowledgment of receipt . Failing an answer, the request is tacitly granted since the Government has committed itself to abide by the deadline. The list of equipment and materials will only be signed after the approval. Consequently, the one month deadline is extended, even if all the conditions are satisfied. However, the promoter, may while waiting for the list of materials to be signed, make a request to the One Stop Shop in order to have a suspension of the duties and taxes on the equipments which have to be collected at the port. Copies of the invoices must be attached to the request.

21. The Status of Duty Free Company is given to the industrial or agricultural (in the broad sense, i.e including horticulture, forestry, animal husbandry, fishing and agriculture) companies located in the Senegalese Customs territory and whose entire production is for export only. The Duty Free Companies system has replaced the export processing zones (see flow diagram n° 2.1). Companies that justify a 80% minimum export potential may also be approved. Here again, the documents which must be submitted are quite complex and include the following :

For new companies :

- application for an approval addressed to the Minister of Economy, Finance and Planning, including a detailed description of the nature and location of the activity;
- CNIN certificate;
- two copies of the company charter and by-laws authenticated by a notary;
- ten copies of the feasibility study.

For existing companies:

- Financial statements of the last fiscal year;
- export declaration statements of the last two years (weight and value) certified by the Customs authorities;
- VAT declaration statements of the last two years certified by the tax administration;
- manufacturing or production certificate (for agricultural companies) of each exported commodity.

In principle, the deadline is one month for answering. The order is signed by the Prime Minister instead of the Minister of Finance.

### Analysis

23. Since the law came into force, the Government has authorized 3,417 projects eligible according to the Investment Code. Potentially, this represents over CFA 1,222 of new investment, and the creation of more than 54.472 jobs. The actual investment and jobs created are certainly quite inferior to those estimates.

24. The One Stop shop enforces the Investment Code which, because of its complexity, requires that special attention be given to its evaluation and control activities. This attention discourages investors because it means delays and discretionary intervention of the authorities. To date, most countries abandon this discretionary approach to introduce Investment Codes based on a limited number of attractive advantages. Emphasis is also put on the company performance and the use of routine procedures which are not subject to the decision and assessment of an agency or a One Stop Shop. However, it is worth pointing out that even in the context of the current Investment Code, the system in Senegal seems cumbersome for both the administration and private companies. The detailed classification of companies and large range of incentives which vary according to the company's type and location significantly contribute to this complexity.

25. The heavy administrative procedures cause many deadlines, in particular due to the difficulty for investors to fill out the forms correctly which are otherwise rejected. It is not rare for an investor to wait more than a year to obtain a license even though it seems that once the dossier is approved, the one Stop Shop takes a decision within a week. After notification of the agreement, by the One Stop Shop, it is sanctioned by a ministerial order and given a number by the Government Secretariat. Those two procedures may considerably prolong the delays. Finally, it is not rare for a company to wait a little longer for the list of equipments to be approved by the one Stop Shop and by the Customs.

26. Government officials realize that companies are reluctant to reveal their strategies and consequently to provide a genuine feasibility study when submitting their dossiers. In Senegal like everywhere else, companies tend to produce an ad-hoc document which is not indeed the real feasibility study. In practice, the Office of Industrial Activities contents itself with a summary of the activity and the list of necessary equipments.

27. Investors would like that the routine approval measure, failing a response from the One Stop Shop, to be accepted by all government services, in spite of the dated receipt of the dossier. The six month deadline set to start the company (implementation of the license) is thought too short by some investors. Furthermore, the government does not want to include in the list of exonerated equipment certain types of cars which companies consider to be commercial vehicles. Broadly speaking, the list of equipment is not detailed by the Code, reason why it is not always approved by the Customs officials who makes their own assessment. This duplication of efforts is typical and contributes to extend the delays and create difference in treatment of investors.

28. The Investment Code advantages mainly consist in the exemption of customs duties on capital goods however, certain companies acknowledge that if they were informed in time of the reduced rate of the duties in the common law system, they would rather pay than follow the complex procedures of the Code . In the new WAEMU customs tariffs which includes a 0% rate for capital goods, the current exemptions are not justified and should therefore be repealed as is the case in many countries. It is worth pointing out that the One-Stop-Shop exemptions can apply to all inputs, whereas the zero rate tariff only applies to capital goods. That is why it can be useful to grant special exemptions to projects which require important equipments such as the construction of hotels, but these exception should be rare.

29. The number of documents in the file is excessive. For example, the company charter and by-laws could be replaced by the certificate of registration issued by the Commercial Court Registrar. Another problem in the length of time necessary to complete the file as certain documents sometimes become obsolete before all the other documents are gathered. It is the case of the the police records which is often valid for 3 months;

30. Most of above mentioned comments also apply to the approval processes for the exempted companies issued by the One-Stop-Shop. There again, the routine approval arrangement is not always implemented. Some administration services namely the customs, do not acknowledge a receipt with the file submission date. The status of exempted company is given by presidential decree, whereas a ministerial order should be sufficient, as is the case for the approval for the Investment Code.

### **Frame n° 2.1**

#### **The export processing zone : suspended investments**

The law on Dakar Export Processing Zone (ZFID,74-06 April 1974) indicates that the system will no longer apply after April 1999. That is why the companies actually operated under the system should apply for the status of exempted companies. According to the DEPZ administration, a score of companies are still seeking approval under the system despite the approaching deadline. The Association of Industries of Senegal Free Areas ( AIPS) is hostile to the transfer of DEPZ to the new Investment Promotion Agency. The on going negotiations permit to envisage an extension of the EZ until 2016 ( date of termination of the Free Areas created in 1991) While awaiting an official confirmation of the extension, some companies have differed their decision to invest.

#### Recommendations

31. According to the current Investment Code , there are several types of project each of which has specific advantages. In practice, because of the complexity of the advantages and of the qualification criteria, the One Stop Shop has in fact a discretionary power. Its decision is based on a thorough analysis of the project and of the information provided by the promoters (feasibility study, etc...) FIAS experience indicates that many governments have questioned and sometimes (1) gradually relinquished this approach for the following reason : first , it is time consuming and necessitates great technical qualifications which are often beyond the capacities of the civil servants. Secondly, it may give an opportunity to use the civil service authority for personal benefits, the more so as relevant administration has not put in place independant control mechanism, which can be very expensive. Thirdly and may be the most important reason, the use of various levels of incentives by sector, even worse by project, contributes to creating distorsions in the private investment allocation.

32. For these reasons, it is recommended to have a new tax exemption system. The latter would be given evenly and automatically to all news companies without any discrimination based in particular on the sector or the size of the company (2). This would immediately permit to remove all the current One Stop Shop verifications and evaluations. Futhermore, as regard the customs duties, it is advised to remove all the advantages given by the Investment Code for the following two reasons: the Export Free system applies to companies for which this exemption is vital; according to the above mentioned principle, a generalized reduction of the customs duties is better than an exemption system. As regards domestic taxation, the only advantages that should be used are routine mechanisms like the accelerated depreciation.

33. If the system of tax advantages was modified in the above-mentioned direction, there would be no need for the One Stop Shop to collect detailed documents for each project. Ultimately, the licences would no longer be useful. The abolition of the licences would send a clear signal to private investors. By the same token, the One-Stop-Shop would have no reason for being, at least as regards its functions of control and evaluation. In fact, such reform would promote the current idea of creating a marketing agency in charge of encouraging private investments without the administrative control and evaluation functions, which presently characterize the One stop Shop.

34. As a member of WAEMU, Senegal depends on the results of the regional reform initiative of the Investment Code. To a large extent, this will determine the shape of the new Investment Code that will be common to the countries of the region. If this has not already been achieved, Senegal should advocate the above-mentioned approach in the WAEMU current discussions.

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1. For example, in France where the tax incetives are generally automatically granted, without taking into consideration the type of project or the sector of activity.

2. This approach does not of course exclude the normal control by the State of the quality aspects which have a public dimension (education, health, food, , etc...) We only deal here with the advantages given by the State

35. While waiting for this regional Code, and for the possible elimination of the licenses

-which partly depends on the results of the on going negotiations- the performance of the One-Stop-Shop could be improved with the following measures:

- Remove the list of equipment likely to be exempted from customs duties that has become useless because of the elimination of the customs duties on equipments;
- Remove the other exemptions from customs duties except a list of specific activities which would not have 0% duty, like the hotel projects for exemple;
- Reduce to the strict minimum the number of information to be given in the application file. For the example, the feasibility study could be eliminated.
- Provide better assistance to investors when they are preparing their application in order to save them the large number of trips to the different government services;
- Delegate the power of signature in the absence of the Minister and remove the necessity for the licenses of the exempted companies licences to be signed by the President's office so that they can be signed within a reasonable period of 3-4 days once they are approved;
- Manage more efficiently the processing of the files at the One-Stop-Shop.

36. These suggested measures are transitional and would only be implemented while waiting for the solution of the more important problems described at the beginning of the section.

37. In any case, Senegal must integrate as far as possible, the sector licenses in the One-Stop-Shop decision making process. The elimination of the routine intervention of the relevant Ministries was achieved in many countries, and extended to several sectors excepted perhaps the mining, health and financial sectors;

#### B Establishment of companies.

38 The investor who wants to set up a company in Senegal must choose a form of legal status according to the corporate law governed by OHADA Uniform Act related to the commercial company and Economic Association Law. It provides for several types of companies each of which has a particular mode of operation :

- The general partnership (GP)
- The limited partnership (LP)
- The Limited Liability Company (LLC)
- The Joint Stock Company (JSC)

39. The LLC and the JSC are the most commonly chosen by both the local and foreign investors (for a description, see table 2.2). The main features of the PLC are as follow

- The JSC is a company whose capital is divided into shares. It is formed by partners who sustain the losses only up to the equivalent of their contributions;
- To create a JSC, it is required to have at least one partner and a capital of FF 100,000;
- All the shares must be subscribed and the capital divided into shares whose par value is

- at least one hundred French francs (FF);
- Concerning the cash input, at least a quarter of their par value must be paid when the company is formed;
- The contributions in kind must be entirely paid up after their value is determined by a statutory auditor.

40. The main features of the Limited Liability Company are as follows:

- It is a company formed by partners who sustain the losses up to the equivalent of their contribution and whose capital is divided into shares;
- The formation of a LLC requires at least one (I) partner and a minimum capital of ten thousand French Francs ( FF 10,000 );
- This capital is divided into shares whose par value is at least fifty French Francs (FF 50);
- All the shares must be subscribed and paid entirely by the partners.



**Table 2.2**  
**Main features of LLCs and JSCs**

	<b>LLC</b>	<b>JSC</b>
Number of partners	Minimum 1	minimum 1
Capital	Minimum FF 10,000 must be paid entirely at incorporation	minimum FF 100,000 Payment of 1/4 at incorporation to be completed within 3 years
Partners' by -laws	Non trading	Non trading
Management	Manager (partner or non partner) appointed by the partners	Board of Administration and Director General, or General Manager
Responsibility of the partners or of the members	Limited to the amount of contributions	Limited to the amount of contributions
Statutory auditor registered on the board of accredited experts	If the capital exceeds FCFA 10,000,000 or turnover exceeds CFAF 25 Million or the permanent staff is over 50 employees	Obligatory

41 The founding shareholders of a PLC or JSC must accomplish the following actions :

- Establish the subscription form ;
- Mobilize funds for the capital (the funds are deposited at the bank or entrusted to a notary) ;
- Assess the contributions in kind, which must be audited by a statutory auditor ;
- Prepare the charter and by laws which must be drawn up by a deed under private seing and acknowledged by a notary ;
- Organize the constituting general assembly ;
- Sign the memorandum of association.

42. Once these tasks are fulfilled , the investor may proceed with the registration of the company at the Directorate of Taxes and at the Commercial Court.

#### **Directorate of Taxes**

(Direction des Impôts)  
Head of Tax Service Center,  
Dakar, 823-34-34  
Contact: Mrs Pinto Sene

43. After they are prepared, the company charter and by laws must be registered at the Tax Service Center of the area where the headquarters are located. A CFA 2,000 revenue stamp is put on the face of each page (3 copies of the charter and by-laws).

#### **Commercial Court**

(Tribunal du Commerce)  
Trade Registry Center  
Dakar  
Tel : 821-51-30  
Contact : Mr Dieng  
Assistant Registrar

44. The founder and the first administrators or managers must submit to the Registry of the Commercial Court a declaration of conformity with the laws and regulations related to company creation. Following the declaration of conformity, the companies must be registered with the Trade Registry at the Commercial Court. The following documents must be provided :

- Three copies of the " registration declaration";
- Two certified copies of the charter and by-laws;
- Two copies of the declaration of conformity;
- Two copies of the certified list of the managers, administrators or partners ;
- Two police records certificate of the managers, administrators or partners;
- A CFA 2000 revenue stamp for the certificate of registration.

45. It takes the Commercial Court 48 hours to register the charter and by laws of a newly incorporated company and to deliver a certificate of registration. Within 15 days, the company must announce its incorporation in a legal gazette.

#### Analysis

46. The company registration and incorporation procedures in Senegal are burdensome, complex and costly, particularly for the small and medium size enterprises. Despite some improvements brought to the process, like the reform conducted under the umbrella of OHADA, there are still many problems because the deadlines of the Commercial Court often exceed the 48 hours announced by the authorities. Moreover, the three registration stages are duplications and should be combined into a single one. There is no reason for the Directorate of Taxes to be involved in the registration of a company charter and by-laws. It also seems useless to have a separate declaration of conformity at the Court Registry Center. The different stages contribute to the complexity of the procedures for no valid reason.

47. The average delays exceed one month, even when the procedures are handled by a notary whose fees are generally high. That is why the economic groupings which offer companies the same legal protection as that of a legal entity has been very popular over the last few years. The expenses involved in a company incorporation are illustrated in table 2.3. It seems that they can amount to over 20% of the capital for a LLC and to 5% for a medium size company.

**Table 2.3**  
**Cost of Company Incorporation**

1 revenue fees	
Revenue stamps	CFAF 2,000 / Sheet
registration fees	Capital up to one million: (5,000) Capital between 5 and 10 million: 50,000 Over 10 million: 2% of the capital (the tax rate for the contribution in kind is 5%)
VAT on notary fees	20% of the amount
2 Administrative fees	
Court Registry	Set fees of CFAF 30,000 Add CFAF 90 for each bracket of one million of capital
Announcement in the gazette	Determine by the gazettes. For example, between CFAF 25,000 and 75,000 for the LLCs ; 50,000 to 1000,000 for the JSC
Notary fees	
Fees proper	Decreasing rate of 2% for the first 10 million of capital, up to 0.1% over 800,000 million
Repertory stamp	2,000
Overheads	150,000
Correspondance fees	3,000
Expedirition fees	200,000 for the JSC

### Recommendations

48 The separate registration at the Directorate of Taxes should be removed because if the latter were to make sure that the business license fee and t registration fees are paid, the tax administration could obtain the information directly from the Commercial Court. Besides, one wonders if the business licence and registration fees are efficient methods of taxation. Their contribution to the overall State income is marginal, and companies registred at the Investment Code do not need the business license.

The removal of these small taxes, which are almost always exempted, would enable to simplify the system and reduce the company procedure which companies are required to follow in Senegal. Finally the delaration of conformity issued by the court should be eliminated or integrated in the company registration procedures. The Court is actually computerizing its services, and this should reduce the delays.

### C Registration procedures

49. Companies must consecutively register at the tax, labor, statistics, and social security departments.

### **Department of Statistics**

(Direction de la Prévision et de la Statistique)  
Ministry of Economy, Finance and Planning  
Rue 1, Boulevard de l'Est, Point E  
Dakar  
Tel : 824-03-01 ; 825-00-50  
Contact : Mr. Magatte Wade  
NINEA Office

50. Once the formalities at the Trade Registry are completed, the company must seek a national identification number of corporations and associations (NINCA) at the identification National Center located within the Department of Statistics of the Ministry of Economy and Finance and planning(MEFP)

51. The NINCA has become obligatory for all administrative formalities since January 1997. The following documents must be submitted:

- Completed application form;
- Photocopy of the Trade Register;
- Taxpayer's account number (if the company is already registered at the Directorate of Taxes).

52. In order to accelerate the approval for operating under the Investment Code system or a status of duty free company, the company may be given a provisional number within a week. The definite NINCA number is issued after two weeks.

### **Tax Department**

(Direction des Impôts et des Domaines)  
Tel: 823-34-34  
Mrs Awa Gueye  
Tax Center, Dakar Plateau  
Dakar

### **Taxpayer's account number**

53 After the registration of the company charter and by-laws, and the issuance of the NINCA, the company must register at the Tax Center of the area where its headquarters is located. The documents to provide are as follows :

- written application addressed to the Head of the relevant Tax Service Center ;
- authenticated copy of the Trade Register ;
- copy of the registration declaration ;
- authenticated copy of the charter and by-laws,
- authenticated lease contract, if there is one ;
- authenticated copy of the NINCA;
- certificate of applicability to business tax system delivered by a controller to indicate that the company will be included in the next tax roll.

54. The tax service issues within one or two days a " form for the creation of a new account in the taxpayer's file" Which the the investor presents at the MEFP, with a CFA 1,000 stamp. After that, the company is given a taxpayer's account number.

## **Frame n° 2.2**

### **Revenue stamps: symbolical income, high cost.**

Senegal continues to require revenue stamps on most of these official documents. The income from these stamps are insignificant for the State, but they have an important direct and indirect impact on the productivity of the government services and an obsolescent image of the business climate. Their elimination would represent a minor revenue sacrifice and would be largely compensated in the medium and long terms by the improvement of the investment climate and consequently the tax base.

### **Identification Number for Indirect Taxes (INIT)**

55. If the company is liable to VAT, it must obtain from the tax authorities an identification number for indirect taxes (INIT). The documents necessary to that effect include :

- a letter of request for a INIT;
- three copies of the certificate of registration number with the taxpayer's account.

56. The INIT is given by the tax administration within 3 days or a week.

### **Ministry of Labor and Employment**

(Ministère du Travail et de l'Emploi)

Regional Inspection of Labor

16, Rue Ramez Bourgi

Dakar-Ponty

Tel : 822-08-69

Contact : Mr. Harouna Haby Ly

Head Statistics and Employment.

### **Declaration of Company Incorporation**

57. The Regional Inspection of Labor delivers a declaration of Incorporation to the company which has already a NIM. The only documents to provide are five completed copies of the declaration of incorporation form.

58. The inspectors stamps the document and gives an identification number. Some additional formalities will have to be performed by the company when it starts its operations and hires employees (see chapter V)

**Department of Social Security**

(Caisse de Sécurité Sociale)

Place de l'OIT

B.P 102

Dakar

Contact: Mr. Abdou Niang

General Secretary

**Membership of the Social Security Fund**

59 All employers must join the SSF. The following documents are submitted :

- Completed application for registration form ;
- certificate with the taxpayer's identification number ;
- photocopies of the company charter and by-laws ;
- declaration of company incorporation ;
- declaration of work movement stamped by the employment office;
- salary book stamped by the Regional Court Registrar .
- NITI number;
- photocopy of the certificate of registration at the trade registry.

60. It takes one week to obtain an affiliation. The SSF gives a membership number and indicates the rate that will be used to compute the subscriptions for the Work Accident Compensation Plan.

**Senegalese Pension Fund**

(Institut de Prévoyance Retraite du Sénégal)

22, Avenue Roume

BP 161

Tel : 821-55-21

**Affiliation to the Senegalese Pension Fund (SPF)**

61 Company which has employees is obliged to join the SPF system. To that end, it must submit to the Fund the following documents

- a copy of the Trade Register ;
- a copy of the Company Charter and By-laws ;
- a declaration of incorporation stamped by the Inspection of Labor and Social Security ;
- the declaration of workers movement stamped by the Employment Office (5 copies for each worker)
- the employer's register when there are more than ten(10) employees ;
- the contract of employment of each worker stamped by the labor Inspection,
- the copy of the NITI.

62. The inspection of labor puts its stamp after receiving for each employee, 4 copies of the contract of employment, a certificate of medical examination and three copies of the declaration of the worker's movement. Then the SPF gives the company an affiliation number.

## Analysis

63. The formalities for registering a company are accomplished in a successive manner. The average deadline being 1-2 weeks for each of them. The whole process may take up to 6 weeks. This waiting period can be extended if there are problems with the signatures ( see frame n°23) At the end of the day, the company is given at least 6 registration numbers. Normally, one day should be enough to attain this objective since these numbers are only to make sure it pays its taxes and social contributions.

64. Companies which have applied for eligibility for the Investment Code, or for the status of tax exempted export company status, the formalities, excepted those relating to the employment office, can be taken care of at the One-Stop-Shop. The Tax Administration complains that the Shop does not always transmit the company's file to the relevant tax service. It also thinks that the One-Stop-Shop not sufficiently inform the taxpayers on their obligations and fiscal rights, in particular the obligation to file a declaration of income tax 15 months after being given an account number, even if it has no receipts. The Tax Department also points out that many companies do not give the address of their notary, which makes it difficult to find them.

### Frame n°2.3

A large number of official documents must be signed by high ranking civil servants. This common practice, has been elevated in Senegal to a degree rarely found in any other country. In some cases, many signatures are necessary for a single document. In others, the signatures have no actual function since they do not guarantee any control. Because of the multiplicity of signatures, the public service departments are obliged to pass the documents to one another again and again, which causes considerable delays.

The power of signature is rarely, if ever; delegated. The main cause of delay to obtain the a signature is the absence or presence of the Minister or of the official in charge. When they are absent, there is nobody to even sign the routine documents. One exception is the Impoter-Exporter Card in so far as the signature of the Director is produced with an electronic device, and therefore does not depend on his presence.

In addition to the complex procedures and imposed deadlines, every signature is combined with informal payments. This practice is not actually considered as bribery, but as a means of thanking the officials for their signature. However, it sometimes leads to excesses which may ruin the system in both the literal and figurative senses. The chances are multiplied by the great number of signatures and complexity of the procedures which oblige the investors to constantly follow up their file with the authorities.

When assessing the large number of formalities described in this study, the Government must think about the type of system they want to put in place. Failing a good answer to this question, the suggested simplification or elimination of the procedures and licences in order to promote private investment, might not have any effect.

65. The Chamber of Commerce of Dakar has tried to establish a Center of Corporate Formalities (CCF) for two years. The Center will issue a form summarizing all the necessary information on the registration of companies in order to reduce them all to one week. Today cooperation among the civil service departments involved seems assured, and the Center will soon be put in place.(a copy of the suggested single form is presented in the annex). The center will charge a modest amount (about CFA F 25,000) to cover its operating costs. It will compete with the services of the notaries and certified public accounting firms, but there will not be any tacit agreement between the One-Stop-Shop and the Center.

66. It should be pointed out that the creation of the Center will not basically change the present system. Each formality will still exist under its current form. A thorough simplification would consist in their elimination or combination, and the use of only one registration number.

#### Recommendations

67 Undoubtedly, the multiplicity of registration procedures and the submission of a great number of documents by investors are due to a lack of rationalization of the communication data management among government agencies. This generates a cost not only for the public administration, but even more for the economy as a whole since it discourages investment in Senegal. To solve this problems, the GOS should consider the creation of a reliable and precise data processing system which would enable to minimize the costs for both the private and public sectors.

68. In the short term and in order to continue the current effort of the One-Stop-Shop and the establishment of the CCF, the registration procedures should be streamlined as soon as



possible. For example, a single registration could take place at the Tax Department or the Office of Statistics which would be then responsible for circulating the information among the other concerned departments. Another simplification might consist in simultaneously identifying the employees at the CCF and SRPF and sometimes at the Inspection of Labor. Such efforts could help reduce the time necessary for the registration procedures to a few days or even a few hours. The use of a single registration number has been efficient in many countries, even though the change may be costly in the transitional period.

69. The standardization of the present system would naturally reduce the information the investor is asked. The creation of the CCF would permit to save more time with the use of a single form. However, no significant improvement of the problem would occur with only the creation of a single form whose adoption is not but a reaction to the multiplicity and complexity of the administrative procedures. The solution would be to streamline and reduce the system to one or two procedures and a single registration number.

70. Some functions of the One-Stop-Shop, should be modified in the near future, in anticipation of the enforcement of the WAEMU new Investment Code. Apparently, the One-Stop-Shop registration functions will be quite obsolete with the standardized and simplified system. The activities could therefore be eliminated without doing any harm to the investor and at the same time permit the One-Stop-Shop to concentrate on its information and facilitation functions.

#### D Other formalities

##### I. Foreigner's identity card.

#### **Ministry of the Interior.**

71. If the investor is a foreigner, he must be authorized to settle in the country by the Ministry of Interior. Application can also be made to competent Senegalese government's representatives abroad with the following documents :

- police records of less than three months;
- medical certificate delivered by a doctor accredited by Senegal (or the administration of the country of origin), of less than two months old, indicating that the applicant has no catching disease.

72. With that clearance, the foreign investor can apply for a foreigner's identity card issued by the Ministry of the Interior. This formality should be accomplished within 15 days following the authorization to settle in Senegal. The requested documents are as follows :

- hand written application ;
- medical certificate ;
- extract from the register of birth, or less than 3 months ;
- extract from police records, of less than 3 months ;
- copy of the first three pages of the passport ;
- three photos;
- CFAF 150 revenue stamp.

#### Analysis

73. Investors think that the 15 day deadline following the clearance is too short. In particular, the issuance of the birth certificate can take more time and even be a problem because of the limited validity duration of the extract from police records, the extract from the register of births and the medical certificate. Furthermore, the yearly extension of the visa, and renewal of the identity card after ten years are associated with taxes the amount of which depends on the applicant's country of origin.

74. The first entry permit could be used as a basis to issue a business visa or any other long duration permit. There is in the present system a repetition of applications like for example, for the extract from police record and for the medical certificates.

75. The deadline to obtain the identity cards are generally important. The Minister must issue a receipt which certifies that a completed file was submitted to the authorities. Many observers indicated that this procedure may last several years and delay a company establishment, as described below :

#### **Frame 2.4**

##### **" The snakes that bites its tail"**

The complexity of the Senegalese administration which dampens the enthusiasm of many investors, leads to incongruous situations. An investor describes his experience as a "catch 22 situation". In order to set up a company, he had to open a bank account to deposit the capital. However, to open the account (in foreign currency), the investor needed an identity card which could only be issued once his company was incorporated.

#### **Recommendations**

76. The deadline can be reduced while controlling the immigration flows. For most of the formalities, the procedures are routine verifications. Likewise, it should be possible to extend the time allotted to foreigners to submit their files, since it takes time to gather all the documents. Some countries recently reduced the deadline for the issuance of foreigner's identity cards, namely Tanzania where it was reduced by the immigration services from 6 months to 2 weeks. This should also be possible in Senegal.

#### **2. Registration of foreign investment.**

##### **Department of Money and Credit.**

(Direction de la Monnaie et du Crédit)

Ministry of Economy, Finances and Planning.

Contact : Miss Dieynaba.

77. According to the foreign exchange control regulations, all foreign direct investment, including investments made by companies established in Senegal which are directly or indirectly under foreign control, and those made by subsidiaries or branches of foreign companies operating established in Senegal, must be declared at the Department of Money and Credit for the purpose of collecting statistical data. No form is needed for this declaration which is made with a simple letter.

### Analysis

78. According to the laws, the declaration of foreign investment is requested for the purpose of collecting statistical data. In actual fact, it seems that it enables the authorities to distinguish foreign and the other types of investments. This is important for foreign investors because it gives them specific rights on the repatriation of the profits and of the capital. FIAS has no particular recommendation to make in this regard.

### 3 Registration of trademarks and licenses

**Intellectual and Technological Property Service**  
(Service de la Propriété Intellectuelle et Technologique)  
Directorate of Industry  
104, Rue Carnot BP :4037  
Dakar  
Tel : (221) 821-15-42  
Fax : (221) 822-55-94  
Contact : M. Doudou Sagna

79. The registration of intellectual properties which include the trademarks and licenses, is done on the regional plane at the African Organization of Intellectual Property (AOIP). Senegal is one of the 15 members of this organization(3). There is no delegation of decision to the AOIP regional agencies ( SPIT in Senegal), and the registration applications must be processed at the headquarters in Yaounde (Cameroun). The protection of intellectual property guaranteed by AOIP, is valid within all the 15 member countries.

80. *Trademarks.* The Senegalese company that wants to protect its trademark must first of all make a request to the AOIP for an anteriority research. There is no application form. The request must define the types of product the trademark will be used. It must be sent with a check for the payment of the research fees which are CFA 82,000 for emergency processing, that is 10 working days. The normal procedure costs CFA 52,000. Contrarily to similar agencies,(for example the National Institute of Intellectual Property in France), AOIP anteriority research only concerns the form but not the content of the trademarks. In other words, it limits itself to verifying the absence of conflicting registrations

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Benin, Burkina Faso, Cameroon, Central African Republic, Congo, Ivory Coast, Gabon, Guinea, Guinea-Bissau,, Mali, Mauritania, Niger, Senegal, Tchad, Togo

81. Once the anteriority research is successfully completed, the Senegalese company may apply for the trademark registration.. This is done with the m.301 form (see annex) submitted to the AOIP in five copies, with a CFA 300,000 check for the fees. The AOIP then registers the trademark, which will be published in the Intellectual Property Official Gazette (IPOG). The individuals and moral entities that think they have some rights on the mark - for the products in question - have a 6 months deadline from the publication in the IPOG to initiate an objection procedure with the AOIP. The trademark protection valid 10 years, and can be renewed indefinitely.

82. In practice, almost all the trademarks registered by the AOIP belong to companies whose headquarters are not located in one of its 15 members. They are often international companies looking for a worldwide protection of their trademarks. These registrations are done like an extension of the registration made in the company's area of origin( for example Europe or the USA). The AOIP is indeed signatory of the Paris Convention on Intellectual Property and register the trademarks protected by the others signatories to the convention.

83. Licenses - Basically, it is the same procedure as that of the trademaks. Because of the technical nature of the application, there is no form for the anteriority research.A license is valid for a period of 20 years which cannot be renewed. Again almost all the licenses registered by the AOIP are extensions of licensies given by non-African agencies.

#### Analysis

84. Information collected by the FIAS mission suggest that AOIP takes much more time to in responding than the stated official deadlines. In Mali, which also depends on the AOIP, FIAS discovered that the AOIP answer deadlines generally exceeded 6 months.

85. Today, this state of affairs seems to create real problems to Senegalese companies, whether they are subsidiaries of foreign companies, or of national origin. As regards the foreign companies, the registration of the trademarks or licenses is done on a worldwide basis through the industrial property protection agencies of the country or region of origin, which does cause any particular difficulty. The companies of Senegalese origin as for them, make very few applications.

86. However, like all the emerging countries which have resumed substained growth, economic take off should undoubtedly go along with increased national R&D, innovation in general , and consequently more protection of the intellectual property for the trademarks and licenses of national origin. In this regard, the AOIP slow procedures may be a bottleneck for the economy.

#### Recommendations

87. The Senegalese authorities are not directly responsible for the improvement of OAPI performance. However, they are advised in concertation with their OAIP partners, to use all their prerogatives in the governing bodies to ensure its rapid operation.

#### 4- Subscription to a the Medical Coverage Program

88. Any company which has one hundred(100) employees or over is obliged to create its own MCP or get a membership of another MCP. If a company has less than one hundred(100) employees, it must get together with other companies, and create their MCP or become subscribe to another program. Large companies are generally subjected other conditions. However, because the MCP are private institutions, they were not thouroughly studied by FIAS.

89. The above described procedures illustrate the complex and time consuming tasks of the prospective private investor in Senegal. At each stage, the procedures are more complicated than in those of the other countries, including those in West Africa, with similar institutions policies and culture. In Mali, for example, it rarely takes one or two months to have an approval from theOne-Stop-Shop and to obtain the associated sector and professional licenses. Likewise, the registration of a company at the Center of Corporate Formalities which is already in place there, or at the traditional institutions takes less than two weeks( including all the compulsory registrations). Overall, Senegal is in this regard less efficient than the countries which have maintained a strict control over the assessment and tax incentives of the new investments projects. Table 2.2 compares the Senegalese system with that of the other countries where all the procedures are completed in less than two months, excepted Hungary. The time necessary for the registration of a company is determined in weeks rather than in months. If some countries used to have long deadlines, several recent reforms have permitted to significantly improve their performance. Tanzania for example has been able to reduce the necessary time for the issuance of the residence permits for expatriates from six months to two weeks. Uganda has computerized the company registration, which can now be done in two days.

The registration of trademarks and licenses, which is one of the foreign investors' main preoccupation takes in general less than three months, excepted in Kenya where the procedure takes longer. In sum, Senegal needs to make important efforts to reduce the details related to the administrative procedures and consequently improve its activity and competitiveness for the foreign and national investors.

**Table 2.4**  
**GENRAL FORMALITIES - SUMMARIES**

<b>Institution</b>	<b>Formality</b>	<b>Constraint</b>	<b>Recommendation</b>
One Stop Shop	Approval for the Investment Code Approval for the Status of Duty free	Complex file Several authorizations	Investment Regional Code Automatic tax exemptions Simplify the required application and information Delegation of signature
Tax Department Commercial Tribunal	Registration of companies	Duplication of controls High cost Time limits	Eliminate the control of taxes Eliminate the duties
Department of Statistics Tax Department Ministry of Labor Social Security Fund Pension Fund	Miscellaneous registrations	Duplication Lack of coordination Consecutive procedures Time limits	Harmonization and combination of registrations Corporate Formality Center Single identification number
Ministry of the Interior	Foreigner's Identity Card	Deadline	Reduction of deadlines
Intellectual Property Service	Registration of trademarks and licences	Deadline	Better coordination with OAPI

Figure 22. Comparative Analysis of general

Formality	Country	DURATION						
		3 months	6 months	9 months	12 months	15 months	18 months	Overall Time Limit
Inscription And Registration Of a company	Senegal							2-3 months
	Mali							1 months
	Jordan							1-3 months
	Malaysia							6-8 weeks
	Hungary							1-2 months
	Chile							About month
	zambia							1-2 months
Registration Of Trademarks	Senegal							6 months
	Mali							6 months
	Jordan							3 months
	Kenya							12 months
	Zambia							3-5 months
	Tanzania							3 months
Approvals for Tax incentives	Senegal							2 months
	Mali							6 weeks
	Jordan							2-4 weeks
	Malaysia							1-2 months
	Hungary							2-4 months
	Tanzania							2-4 weeks



Maximum deadline



Minimum deadline

- at the national and regional levels
- recent changes have stopped the processing of the files
- estimated average deadline, including before the submission of file

Source : The services Group

## CHAPTER III

### SPECIALIZED LICENSES

90. The registrations or approvals described in the previous chapter are necessary for any company to be established in Senegal. A certain number of additional formalities and licenses are compulsory for several sectors or activities. These are namely preliminary licenses and special regulations related to the company operations. They apply to many sectors in addition to the licenses requested for conducting professional activities that are given by the One-Stop-Shop. This chapter examines the sector approval formalities for the mining, tourism, finance, industry, technology, fisheries and leather sectors. The list does not comprise all the sectors for which special licenses are necessary, but it is representative of the sector regulations currently implemented in Senegal.

#### A. Mining

##### **Mining and Geology Office**

(Direction des Mines et de la Géologie)

Ministry of Energy, Mining and Industry

104 Rue Carnot

Dakar

Tel : 822-08-04

Contact : Mr Lamine Sy , Geologist Engineer

91. Law 88-06 of August 26, 1988 (Mining Code) governs the Senegalese mining sector. There are separate procedures for each mining activity (exploration, research, exploitation, etc...).

92. **Exploration** . The applications for licenses to explore mineral substances must be submitted in three original copies to the Director of Mining and Geology. the application must be introduced with the following documents :

- Individual ( name, occupation, nationality and address) ;
- Moral entity (headquarters, registered capital, name, occupation, nationality and address of all the people responsible for the company management like the Director Managers, Boards members etc...; charter and by- laws, operating account and balance sheet of the last financial year) ;
- Identity of the field workers;
- Objective ; scientific or economic nature, geographical location and likely duration of the proposed exploration ;
- Description of the proposed works, methods to be used.

93. After the exploration is completed, the investor must give the Mining Office a note on the works conducted and the results obtained. The note must be presented with maps, samples and any other technical documents deemed necessary.

94. If exploration works are not completed during the time authorized, the investor must make another application to the Director of Mining and Geology.



95. **Research license.** Three original copies of the application for a research license are submitted to Mining Office. The application must include the applicant's identity, the mineral substances for which the application is made: the definition of the area applied for, the computation of its surface and the duration of the permit applied for. The following documents must be enclosed to the application :

- All the technical documents proving the technical and financial capacities of the investor;
- a note on the proposed works and research methods ;
- an excerpt from the map of Senegal ( drawn to a 50,000, or 1/200,000 scale, or failing that 1/500,000 scale);
- a receipt of the paid standing fees ;
- the draft project of the convention between the state and the license applicant.

96. Once the permit application documents are declared acceptable by the Director of Mining and Geology, they are examined by the Mining General Council before the research license is given by decree following the report of the Mining Office.

97 The research license application must be renewed at least two months before the expiry date.

98. **Exploitation license.** Three original copies of the application for an exploitation license must be submitted to the Mining Office at least three months before the research license date of expiration with the following elements :

- an excerpt from the map of Senegal drawn to 1/50,000, or failing that to a 1/200,000 scale of the area where the exploitation is envisaged ;
- a map of Senegal drawn to a 1/10,000 or 1/50,000 scale on which the coordinates of the summits of the requested perimeter are connected to invariable and well defined landmarks ;
- a development and exploitation plan of the deposit, an assessment of the impact of the exploitation on the environment ;
- a draft revision of the convention between the State and the permit holder.

99. Before an exploitation license is granted, a public inquiry must be conducted by the Minister in Charge of Mining. Copies of the application, a plan and a standard note must be sent to the head of the regional service. The inquiry lasts a minimum of three months, starting from the first announcement in the official gazette. Meanwhile the application is posted in the relevant regional services and the region Governor's office. Any kind of opposition can be made during the inquiry. Three months after, the Governor submits a report to the Minister of Mining on the results of his investigations and issues a certificate.

100. At the end of the public inquiry, the applications for exploitation and concession licenses are acknowledged as regular by the Director of Mining and Geology, even if they must be examined afterwards for comments by the General Mining Council.

101. **Permit for opening and exploiting a permanent quarry.** Three copies of the application for opening and exploiting a permanent quarry must be submitted to the Mining Office with the following documents :

- all the documentation proving the technical and financial capacities of the investor;
- a map indicating the geographical location of the quarry on a 1/50,000 or 1/200,000 scale ;
- a detailed plan at the appropriate scale of 1/5,000, 1/1,000 or 1/500 showing the perimeter of the quarry applied for and the limits of the authorized neighboring quarries ;
- a technical note indicating the nature and special features of the deposit and the pace of the expected exploitation;
- a receipt of the standing fees.

102. After it is submitted to the Mining Office, the application is sent for comments to the following :

- Head of the Mining Regional service ;
- Head of the Land Registry Regional Service ;
- Head of Forestry Regional Service ;
- Head of Land Office Regional Service ;
- Chairperson of the Rural Community where the area to be exploited is located .

103. After it is approved by the above-mentioned authorities and the payment of area taxes, the quarry is authorized by a joint order of the Mining Office and the Directorate of Land.

104. The relations between the licensees / concession owners and third parties. Any occupation of public land must be justified by a preliminary occupation permit. Three original copies of the declaration of land occupation and application for land occupation must be presented to the Mining Office with maps on the appropriate scale indicating the geographical location of the extraction areas, the description of the expected installations, and all other explanatory documents for the occupation.

105. The authorization for temporary occupation of a piece of land located in research permit area is jointly given by the Minister in charge of Mining and the Minister in charge of State-owned land. The occupation order is decreed based on the comments of a commission consisting of the following members :

- Head of Mining Regional Service (Chairman) ;
- Head of Land Registry Regional service ;
- Head of Forestry Regional Service ;
- Head of Land Office Regional Service ;
- A representative of the licensee;
- Chairperson of the relevant Rural Community.

106. This authorization can only be renewed once, for 6 months.

107. **Yearly and monthly reports.** The holder of a research or exploitation license, or any other mining concession must prepare monthly and yearly reports. The monthly reports should give the following information;

*Personnel*

- Number of working days ;
- Number of working days for each category of workers ;

*Geological and geophysical activities.*

- Nature of and statistics on the work done ;
- Progress status of the works ;
- Results obtained;
- End of activities report.

*Production*

- Statement allowing to follow the production of the mine, the stock of raw minerals and the sales ;
- Quantity of products exported with names of the purchasers, and countries of destination ;
- FOB prices at the loading port for each expedition.

108. Every year, before the end of the first term, the licensees must give a presentation of their overall activities carried out during the year. This yearly report must include the following elements :

*General information on the licensed company :*

- Brief reminder of the company charter and of the changes made in the year regarding the capital and board of directors;
- Detailed organizational chart of the company.

*Reminder of the previous research and production activities ;*

- Brief summary of the activity ;
- Systematic reminder of the main information and results.

*Status of the staff*

- List of names of the executives and foremen by category
- Working days ;
- Workers' salaries ;
- Daily average number of blue collar workers including those hired by the licence holder but on the payroll of a geophysical and drilling companies ;
- Summary statement of the accidents at work

*Equipment*

- List of the Equipment used, output, consumption of explosives gaz, and stocks.

*Accounting*

- Supporting statement of the expenditure made in the previous period.

Tables 3-1, 3-2 summarize the duties and taxes due by mining companies

**Table 3-1**  
**Mining System : Standing Fees**

DESCRIPTION	AMOUNT IN CFA	COMMENTS
<b>MINING RESEARCH LICENSE</b>		
- Issuance fees	350,000	
- First extension fees	500,000	
- Second extension fees	750,000	
- License transfer fees		
<b>MINING EXPLOITATION LICENSE</b>		
- Exploitation license transfer or issuance fees	1,500,000	
- License extension fees	2,000,000	
<b>MINING CONCESSION</b>		
- Institution, mutation, merger or division of mining concession fees	3,000,000	

**Table 3-2**  
**Mining System : Area taxes**

DESCRIPTION	AMOUNTS IN CFAF	COMMENTS
<b>MINING RESEARCH LICENSE</b>		Per sq km a year
- First period of validity	125	
- First extension	250	
- Second extension	500	
<b>EXPLOITATION LICENSE</b>		Per ha / year
- Mining concession	500 1,000	

**Table 3-3**  
**"Ad valorem" taxes**

DESCRIPTION	RATE	COMMENTS
Alumine phosphate		
- For the fraction of annual sales inferior or equal to 100,000 T	2%	Of the mining bank value
- For the fraction of annaul sales over 100,000 T	5%	
Lime phosphate	2%	Of the mining bank value
- For the fraction of annual sales inferior or aqual to 500,000 T	5%	
Other mineral substances	2% to 5% determined by convention case by case, taking into account the nature of the mineral substances	

#### Analysis

109. The procedure for obtaining the licenses are time consuming and complex. For example, most investors complain about the long duration of the investigations (at least 3 months). In addition , the opinion of the Mining General Council requested after the public inquiry does not seem necessary and further delays the authorities' decision making process.

110. In order to obtain a license for opening and exploiting a permanent quarry, it is necessary to have the opinion of 5 different agencies and a joint order of the Mining Office and the Directorate of Land. This seems excessive. The declaration of land occupation and applications for land occupation permits are renewable only once for a period of 6 month. This is in contradiction with mining activites which needs a long development period. Furthermore, the Commission responsible for giving the land occupation permits does not meet regularly; and this is another cause of delay.

#### Recommendations

111. The procedures which must be followed to obtain the mining licenses in Senegal should be streamlined. Today, a reform of the Mining Code is underway. The above mentioned delays and problems should be examined in the framework of the reform. The analysis made here is incomplete, but recommendations are made along the line of the investors' suggestions. Consequently, the duration of the public inquiry should be reduced from three to one month. As regards the licenses for opening and operating permanent quarries, a committee comprising the representatives of the 5 regional services should be established. It would meet regularly ( every other week) to give its opinion on and approve or disapprove the applications. The substitution of the regional services by the commission would permit to shorten the procedure deadlines. Finally, because of the nature of the investment in the mining sector, the opening and exploitation licenses should be renewable for at least one year instead of 6 months.

B. Tourism.

**Ministry of Tourism and Air Transports**

(Ministère du Tourisme et des Transports Aériens)

BP 4049

Dakar

Tel : 821-11-26

Contact : Head of Investments

112. Tourism has become one of the most active sectors of the Senegalese economy. It is regulated by the Code of Tourism, and the investors interested in travel agencies, tourist guide, or transport activities must obtain a license from the Ministry of Tourism and Air Transports ( MTAT). For the hotels, investors ' no longer need a license, but the approval of the Minister. In any case, investors are advised to contact the MTAT before the one-Stop-shop.

113. **Licenses for travel, tourism or tourists transport agencies.** In order to Obtain a license for a travel or tourists transport agency, an application must be made to the Office of Travel Agencies and Tourists Transport Companies at the MTAT with the following documents:

- application for the license addressed to the MTAT ;
- a certificate of Senegalese nationality ;
- an extract from the police records of less than 3 months ;
- a copy of the lease or property title for the offices ;
- a commitment to make a CFA F 500,000 tourist deposit;
- a receipt of subscription to a civil responsibility insurance policy ;
- a list of the Senegalese permanent employees who should constitute at least 80% of the staff ;
- a copy of the extract of registration at the trade registry ;
- a copy of the company charter and by-laws;
- a certificate of good moral conduct issued after investigations by the Ministry of the Interior upon the request of the.MTAT.

114. Once the application is completed and the receipt delivered, the employees of the Transport and Travel Agencies Office inspect the office space. The approval of the National Committee for the Issuance of Tourism and Travel Agency Licenses is obligatory no later than 2 months after the application. The absence of an answer means that an authorization has been granted to the investor who will receive a licence upon presentation the receipt. If everything goes normally, the license is issued by an order of the Minister of Tourism.

115. **Hotels.** There are no special licenses for hotels, but investors must submit the following documents to the MTAT:

- a letter informing the Minister of Tourism on the project ;
- a feasibility study;
- an architectural plan;
- a copy of the lease or land title.

116. An MTAT Committee examines the documents and, if they are in order, sends a letter of approval (the license) to the One-Stop-Shop. According to the Minister of Tourism, it only takes three days to prepare the letter when all the documents are accurate. However, the Committee meets once every month, which explains an occasional delay. Before the hotel is opened, the opinion of the Office of Civil Protection on the security of the project is necessary.

117. **Tourist guide.** To become a tourist guide, applicants must meet the following conditions :

- be of Senegalese nationality or from a country which grants reciprocity to the Senegalese nationals ;
- be physically healthy ;
- have never been condemned to any penalty with or without suspension of sentence for any crime or offence, excepted the involuntary violations.

118. The first category of professional guides are the holders of diplomas of higher studies in Tourism or similar degrees. They must also have a BA in humanities or in Art and Archeology to justify sufficient knowledge of tourism and languages. The second category are the ancillary professional guides who must have some knowledge of tourism, art history, the fauna, flora etc...

119. Applications are made to the Office of Tourist Occupations and Activities at the MTAT which issues receipts. An internal consultative Committee of the MTAT interviews the applicants. Upon approval, they are given professional cards prepared by the MTAT within 2 months.

#### Analysis

120. The file requested by the MTAT is complex and necessitates an excessive number of supporting documents. In addition, certain constraints imposed upon the travel agencies seem improper like the compulsory 80% Senegalese employees. The company should be free to choose its staff. The examination of the documents by the One-Stop-Shop is a repeated effort: the two evaluations should be combined

121. The deadlines for obtaining a travel or tourists transport agency license often exceeds the statutory two months and can go up to a year. The two months deadline only applies when all the documents are completed. However, this seldom happens as it is necessary to follow many administrative procedures to get them together.

#### Recommendations

122. The Ministry of Tourism must reduce the number of documents needed to obtain the license for travel and tourists transport agencies. It is suggested to gather all the tourist projects at the One-Stop-Shop, where the Ministry would be represented. This would naturally reduce the deadlines for the investors. It would also be useful for the Ministry to prepare a "guide" to assist investors who want to do business in this sector, and which would indicate the types of projects approved in the country according to a sector guideline.

C Banks, insurance companies and financial services

**Central Bank of the West African States**

(Banque Centrale des Etats de l'Afrique de l'Ouest)

Dakar branch

BP 3159

Tel : (221) 823-53-84

Contact : Mr. Abdoulaye Gaye, Head of Studies

**Diretorate of Issurances**

(Direction des Assurances)

Ministry of Economy, Finance and Planning

Contact : Mme Mariam Diouf, Director

123. *Banks and financial institutions.* Because of the stakes and risks involved in the banking sector, it is regulated by quite specific laws. Licenses for new banks and financial institutions are given upon conforming opinion of the WAEMU Banking Commission whose headoffice is located in Ivory Coast. A long list of documents is requested. They relate to the shareholders' identity and background, and to their projects in WAEMU (see list in the Annex). The Banking Commission reserves the right to request further information; and no routine approval has been envisioned..

124. *Insurance companies.* Like the banks, this sector has its own regulations. The license is given upon conforming opinion of a regional organization, the International Conference of Insurance Markets (ICIM) whose headoffice is in Libreville (Gabon) for all the African Franc Zone.(4). Again, detailed information is requested for the licenses with possible additional investigation. It should be noted that a license is not necessary for the occupation of underwriter; in practice, insurance companies supervise the reinsurance companies.

125. The ICIM is also responsible for the supervision of operating insurance companies, with the assistance of the Directorate of Insurance. In 1997, the licenses of three defective Senegalese insurance companies were withdrawn by the ICIM.

126. Insurance brokers are also subjected to a special licencing procedure. This time, it is the insurance office which gives its approval. The list of requested document is indicated in the annex. About ten applications are made to the insurance office every year. It takes a few weeks to receive an answer.

Analysis

127. It is normal for the banking and insurance sectors to be carefully monitored by the public authorities. They significantly contribute to the institutional capital of the economy and have potential systemic risk. It is understandable that the states delegate their authority to regional entities, which are often in a better position to make decisions that are economically necessary but politically sensitive, like to discarding the lame ducks.



128. Because the banks, financial institutions and insurance companies are examined at a regional level, FIAS has no special recommendations. However, it should be pointed out that better access to credits is a determining factor of growth. It is therefore necessary for new financial institutions to break into the market, in particular non banking institutions like leasing companies and investment funds. Consequently, it is crucial to keep an adequate balance between the necessity to regulate the sector on the one hand, and to promote the emergence in the market of new credit providers, including foreign investors, and also competition among the existing institutions.

#### D. Industry.

##### **Department of Industry**

(Direction de l'industrie)

Ministry of Mining and Industry

104 Rue Carnot

Dakar

Tel: 821 15 42

129. The Department of Industry, according to laws Nos 9835 and 9836 of April 17, 1998, grants an authorization to industrial companies that want to benefit from the preferential tariff system for their inputs. The application is made to the Department in the form of a letter with a detailed description of the product manufactured and the imported inputs. After an inspection, the civil servants from the Department submit a report to the Minister who issues a written approval.

#### Analysis

130. According to the information collected at the Department of Industry, this arrangement enables to reduce the import duties on the inputs for industrial activities from 25 to 30 %. However, the adoption of reduced rates by the WAEMU countries decreased the profits engendered by this measure, and at the same time, adds another administrative procedure at the Department of Industry. Consequently, clearing the goods through the Customs has become even more complex.

#### Recommendations

131. The authorization should be eliminated when the new WAEMU tariffs comes into effect.

#### E. Technology ( Dakar Technopole )

##### **Mission for the Development and Promotion of Dakar Technopole.**

(Mission d'Aménagement et de Promotion du Technopole de Dakar)

Immeuble Ben Abdel Aziz

Boulevard Djily Mbaye

Tel : 22.92.48

Contact : M. Ibrahima Basse

Head of Mission

132. Dakar Technopole is a planned economic zone destined to host research and training centers, and companies that develop technological innovations order to promote among them the synergy necessary for the creation of wealth and jobs. The 194.5 hectare site is entirely developed and located near Dakar Yoff airport and the main research centers. The Technopole is managed by a mixed economy company with state minority holding.

133 . The Technopole aims at developing a pole of agrifood industries under the form of a plant nursery near the installations and nurseries of the Food Technology Institute (ITA ). Other development poles are also planned: computer science, telecommunication ; environment, energy, and medical plants.

134. The Dakar Technopole Company can tranfer or hire plots or office buildings to companies, teaching or research institutes, or to companies and services authorized to settle in the technopole to benefit from its environment and infrastructures.

135. The licensed company must justify a research and development effort, made on their own or through contracts with public and private research laboratories. Companies in the Technopole will benefit from the advantages of the Investment Code and the export oriented companies will be considered as exempted. The approved companies will have access to the subsidies of the Technical and Scientific Research Impulsion Fund (TSRIF)

136. In addition to the above mentioned advantages, the approved SMC may have received assistance for a part of their fees paid in research and development contracts, for their participation in the purchase of patents or licenses destined to the promotion of the Senegalese resources, and for the salary of researchers for one year.

137. Fifteen copies of the approval form must filled out. The license (law n° 96.36 of 12/31/96) is given within a week, but it must be sanctioned by a presidential decree that is recorded at the Secretariat of the Government. According to the Mission for the Development and Promotion of the Technopole, the whole process takes no more than 15 days.

138. The Approval Committee consists of the following members (decree n° 97291 determines the rules governing the operation of the Technopole Approval Committee)::

- representative of the Prime Minister, Chairperson
- representative of the Minister in charge of Finance;
- representative of the Minister in charde of the Environment;
- representative of the Minister in charge of Scientific Research and Technology;
- representative of the Minister in charge of Industry;
- representative of the Minister in charge of the Interior;
- representative of the Minister in charge of Town Planning;
- representative of the Technopole Scientific Council;
- representative of the Fundation in charge of the Technopole Development;
- Director General of the Technopole Managing Company;
- Director General of the Customs;
- Director General of Lands and Taxes.

### Analysis

139. The attraction of the Technopole, besides the preferential system, is access to real property: CFA 6,000/ sq m to purchase developed land, CFA 2,500 sq m a month to hire office space. Prices are much higher for companies in any part of Dakar. The Technopole is about to instal two incubators (agrifood in partnership with the Institute of Food Techniques and Service Activities).

140. To date, only one company has been approved for the Tecnopole system: Teleservice, a subsidiary of the privatized Sonatel which must create 120 jobs and will operate a line service for Microsoft. That why it is difficult to assess the implementation and duration of the procedures. however, many applications are in preparation some of which were returned to be completed.

141. Decree n° 97291 dictating rules for the organisation and functioning of the Technopole Approval Committee indicates the list of information requested from the applicants. The application form however, is not in accordance with the decree. In the form, investors are supposed to do a project study and provide information on the company marketing policy, namely on the main competitors and customers, which many of them consider as sensitive. Again, it should be reminded that when investors are obliged to present their feasibilty study in Senegal, they generally produce an "ad hoc" document. On the other hand, people tend to neglect the last item in the decree, i.e "details of the dammmages that may be caused by the company".

142. The percentage of personnel training expenditures necessary for aproval is left to the appreciation of the Approval Committee.

143. In addition to the benefits related to the Investment Code and to the status of exempted company, the Technopole system gives advantages to the research activities. However, research incentives should not be related to any special location.

### Recommendations.

144. The Technopole creates a new investment system. The allocation of research incentives should be independent from the geographical location the researchers, and the Technopole companies,preferably from the private sector, should not be given special advantages.

145. For the moment, the status of Technopole company is given by presidential decree. it would be simpler to have a ministerial order instead, like for the Investment Code.

146. The application form should be redesigned in order to be in accordance with decree n° 97291.

## F. Fishing

### **Department of Oceanography and Sea Fishing**

(Direction de l'Océanographie et des Pêches Maritimes)

1, Rue Joris

B.P 289

Dakar

Tél : 21.27.75

Fax: 21.41.58

Mr. Moustapha Thiam, Assistant Director

147. The Department of Oceanography and Sea fishing delivers licenses to all fishing boats and to all fishing processing industries in Senegal.

148. **Fishing Boats.** Fishing boats are licensed for each specific type of fish, in 5 categories, and are given yearly permits.

149. The procedure is different for foreign companies and varies depending on whether the country of origin of the boat has signed an agreement with Senegal, like the European Union, Japan (for tuna) and most of Senegal's neighboring countries. For those countries, the initial request must be sent to the authorities of the country of origin who will forward it to their Senegalese counterparts, the Department of Oceanography and Sea Fishing to make an evaluation of the existing quotas and of their use, the level of catch and the number of boats which are registered before giving an answer. There are also several special conditions in some individual conventions with the other countries of the region which can influence the decision and method of issuance of the permit. once the request has been accepted, it is sent back to the authorities of the country of origin by their Senegalese counterparts.

150. In case the country of origin of the boat has signed no agreement with Senegal, the license is issued through a process called: "chartering". The foreign boat must join a Senegalese company, which must show the need for such an association. It is usually a processing industry. The latter must guarantee that it will buy all the products caught by the foreign boat. The company can charter a maximum of two foreign boats, for a period of 2 years. After that, the company is allowed to purchase those boats and to continue exploiting them, but under the Senegalese flag.

151. Senegalese boats must also write to the Direction of Oceanography in order to obtain a license, but are not subject to the same quotas and restrictions as the foreign ones. However, they are subject to the catch restrictions imposed by the general constraints of sea resource management. Nowadays, the coastal zone is saturated and no additional permit is granted. But "offshore" type of licenses are still given. The permits are valid for one year. Companies must pay fees according to the tonnage of their boats and the license category.

152. there exists an advisory commission responsible for the issuance of licenses. It is chaired by the Director of Oceanography and Sea Fishing. The commission must approve all licenses. It has monthly meetings. Candidates must submit their applications composed of the following documents:

- a form delivered by the Department of Oceanography and Fishing, including technical information on the boat;
- a tonnage certificate;
- an attestation of the One Stop Shop or of the Trade Register
- the company charte and by-laws, in case it is a legal entity.

153. The Commission may request additional financial and economic information from the applicants. the whole procedure is generally completed within a month.

154. **Fishing products processing industries.** They are licensed by the Department of Oceanography. First of all, they must register at the One Stop Shop as exempted companies before going to the Ministry of Fishing. Then, they are approved after the companies are inspected. Factories must abide by the by laws set by the European Union which is the main export market for the Senegalese fishing products. Licenses are also submitted to the European Union for approval. No fees are needed for the processing industry licenses.

#### Analysis

155. The fishing sector is well developed in Senegal. The industrial sector is dominated by foreign firms in terms of number of boats and processing industries. However, the future growth of this sector is limited by the decline in catch potentials, reason why it is not attractive for additional investments, but which at the same time, draws the authorities' attention to the system of license issuance. This sector is more and more subject to competition with exports from other countries.

156. The license issuance procedure is the only tool which can be used to manage the stocks of the fishing resources and to limit the catch expansion. This procedure has often been considered discretionary, but it has not preserved the growth of the sector. In addition, the majority of the licenses seem to have been given in a reasonable time limit.

#### Recommendations

157. Since the fishing resource management is becoming more and more important for the government, the procedure of license issuance for fishing boats, particularly foreign ones, is going to be very restrictive. In this context, the Department of Fishing should consider different approaches in order to ensure that the measures which are taken are respected. One possible option would be to set licenses for the different categories of boats and/or fish and to put them for auction. If the objective is to protect the local boats, it would be possible to reserve some licences or to use lower prices for them. This approach would generate additional revenues which could be used to improve the controls and inspections, as well as other aspects of the Senegalese fishing policy. This would also be more efficient in terms of fishing resources management.

G. Leather and Skins.

**Department of Animal Breeding**

(Direction de l'Elevage)  
Ministry of Animal Breeding  
37, Avenue Pasteur  
Dakar  
Tel : 823 43 99

158. Tanneries are allowed by the Department of Animal Breeding within The Ministry of Agriculture. Prospective investors must send to the Department documents which must include : the installation plan, a copy from the Trade Register and a written application. The Department then carries out an inspection, but solely once the building of the site has been completed. After that inspection, the documents are sent to the Ministry for the installation permit to be signed. That procedure is usually completed within a month. The licence is valid for a year and necessitates a new inspection by the Department authorities to be renewed. there are no fees or commissions to be paid.

159. The only concern for the Department is the assessment of waste and odour from tanneries which have an impact on the environment. tanneries are considered as listed, which means that they are subject to an independent inspection by the Ministry of Environment.

160. In order to export the processed leather and skins, a separate permit is necessary. It leads to the same procedure as the one for the inspection of installations, but with a special focus on quality control. Tanneries must obtain a work permit before applying for an export license which is valid for one year.

Analysis.

161. The actual leather sector has expanded a little after having undergone the constraint of a monopoly for several years. Today, there are about 15 operating tanneries , one of which is of relatively big size and is located in the export processing zone. All of them export first phase processed leather toward the main European markets.

162. The aim of the licences issued by the Department of Animal Breeding is to ensure that tanneries have a limited impact on the environment, and that the working conditions are respected. In that perspective, there is a doubling with the inspections carried out by the Office of Listed Companies of the Ministry of Environment.

163. The export licences also seem redundant with the work permits. All the leather is exported at an initial "wet blue" processing stage, for there are no tanneries capable of producing finished leather in the country. What is equally important to know is that the inspectors are unable to control the quality of the products. this should be left to the appreciation of the companies and their customers who are more informed about the problems of quality than the civil servants at the Department of Animal Breeding.

### Recommendations.

164. Licenses issued by the Department should disappear since they are redundant with the inspections carried out by the Office of Listed Companies, which is responsible for the related environmental questions and for the impact of the economic activities on it. the export license is also superfluous, even useless, and should be suppressed. The Department should concentrate its activities on counselling companies in order to help them improve their quality control, on a voluntary basis, and to encourage them develop their own program in collaboration with the importers within the European Union.

**Table 3.4****SPECIAL FORMALITIES – SUMMARY**

Institution	Formality	Constraint	Recommendation
Minig and Geology Department	Prospection  Research Exploitation	Time limits Complex procedures Several approvals	Reform of the Mining Code to streamline procedures
Ministry of Tourism	Tourists transportation or travel agency License Hotels Tourist guide		Regional control
Central Bank of West African States Directorate of Insurance	Banking license Insurance agencies and companies Financial institutions	Examination of documents Separate tax exemption system Presidential decree	Eliminate for general advantages
Department of Oceanography and Sea Fishing	Fishing boats Processing factories	Discretionary procedures	Better use of resources with bidding system
Department of Animal Breeding	License for tanneries Export authorization	Duplication of effort Duplication of licenses	Combinaison of licenses and Management by the Office of Listed companies



## CHAPTER VI

### LAND ACCESS AND SITE DEVELOPMENT

#### A Land access

##### 1 Obtaining state-owned land

###### **Tax Department**

(Direction générale des Impôts et des Domaines)

Land Office/ Land Registry Office

(Direction des Domaines/Direction du Cadastre)

Rue de Thiong

Tel: 23.12.25

Contact : Mr. Abdoulaye Sow

165. The Land Office oversees the procedures of acquisition of plots in Senegal. State-owned lands includes public and private properties which consist of all real estates and movables owned by the State or on which it has rights.

166. **The Public property.** Property which is not likely to be subject to private appropriation because of its nature or the role it fulfils. It is either natural or artificial. It is composed of the territorial sea, navigable or floatable waters within the limits determined by the territorial waters on the bed before they overflow; non navigable or floatable waters; lakes and permanent ponds within the limits reached by the highest waters before overflowing, surface waters and underground aquiferous sheets; the sub-soil and the air space. Artificial public property includes the extension areas of roads, bus stations, railways; harbours or river basins; airports and landing fields; hydraulic works; navigation canals; drinking water and sewage systems ; power lines, telephone lines; aerial installations of radioelectrical stations, military defense installations; collection and art works in national museums, markets spaces landmarked for public infrastructures.

167. Authorization to occupy the natural or artificial public property is granted on a personal basis. The approval documents describe the conditions under which the use of a piece of the public property has been approved. This authorization can be repealed anytime without any compensation.

168. **The private Property .** Private property is composed of real estate and personal property of real estate and personal property acquired free of charge by the State or in return for payment according to the system of Common Law; building obtained by the State through expropriation; State registered buildings; real estate and personal property whose confiscation is decided in favor of the State; buildings abandoned after registration; declassified parts of the public domain ; vacant properties without owners.

169. There are two types of real estate private properties: the allocated and the non-allocated properties. The allocated property includes the buildings used by government services for their operations. The procedures of allocation, change in allocation or non allocation are done

through Presidential Decree prepared by the Minister of Finance. The act stating the allocation or change of beneficiary, describes the service or government owned company to which a building has been allocated and the use that will be made of the building. Non-allocated buildings are under the supervision of the Land Office.

170. There are several possibilities for buying and renting:

- Temporary settlement permits. The temporary occupation permit can be repealed at anytime and is issued for areas with no urban development plan yet. The beneficiary can only have light or movable constructions. This authorization can be cancelled anytime without compensation, after a three month notice sent by registered mail. When the authorization expires, the land must be freed from all installation and constructions.
- Regular lease. A regular lease gives the leaser the right to occupy the land for a period not to exceed 18 years. It is granted under the following conditions :
  - Rent is payable in advance and liable to change;
  - The investors must bear all expenses related to the building and must pay land taxes and all other attached taxes;
  - The investor may not sell the lease or sub-let the building without authorization ;
  - When the lease expires, the building and all its facilities and construction will be returned to the State, unless the contract requires that the building be put in its initial condition.
- Long-term lease : This type of lease provides to the investor real rights that may be used as collateral. It is granted under the following conditions:
  - Minimum duration of 18 years and maximum duration of 50 years, with possibility of extension within the 50 years limit and of renewal of the lease;
  - It is compulsory to develop the land within a determined time-limit ;
  - Rent is payable in advance and subject to change;
  - Obligation for the investor to bear all charges related to the building and to pay land taxes and all other attached taxes.
- Land rights concession. Land Rights Concessions are only granted for plots located in a residential area and which to be used for housing purposes.

171. **Request.** The investor must send to the Land Office a application with the following documents :

- a written request;
- an extract of the parcel plan requested with approval of the land office if a choice has been made;
- an investment program and a financial plan of the project.

172. The investor must convince the Land Office of the validity of the request. Subsequently, the request is sent to the Land Registry Office where its technical aspects are examined and then to the Land Transactions Control Committee which studies the financial implications. Following the approval of the Land Registry Office, the Ministry of Town Planning and the

committee, a draft contract authorizing the lease is submitted to the Minister for approval. Following the approval, a copy of the contract is given to the investor.

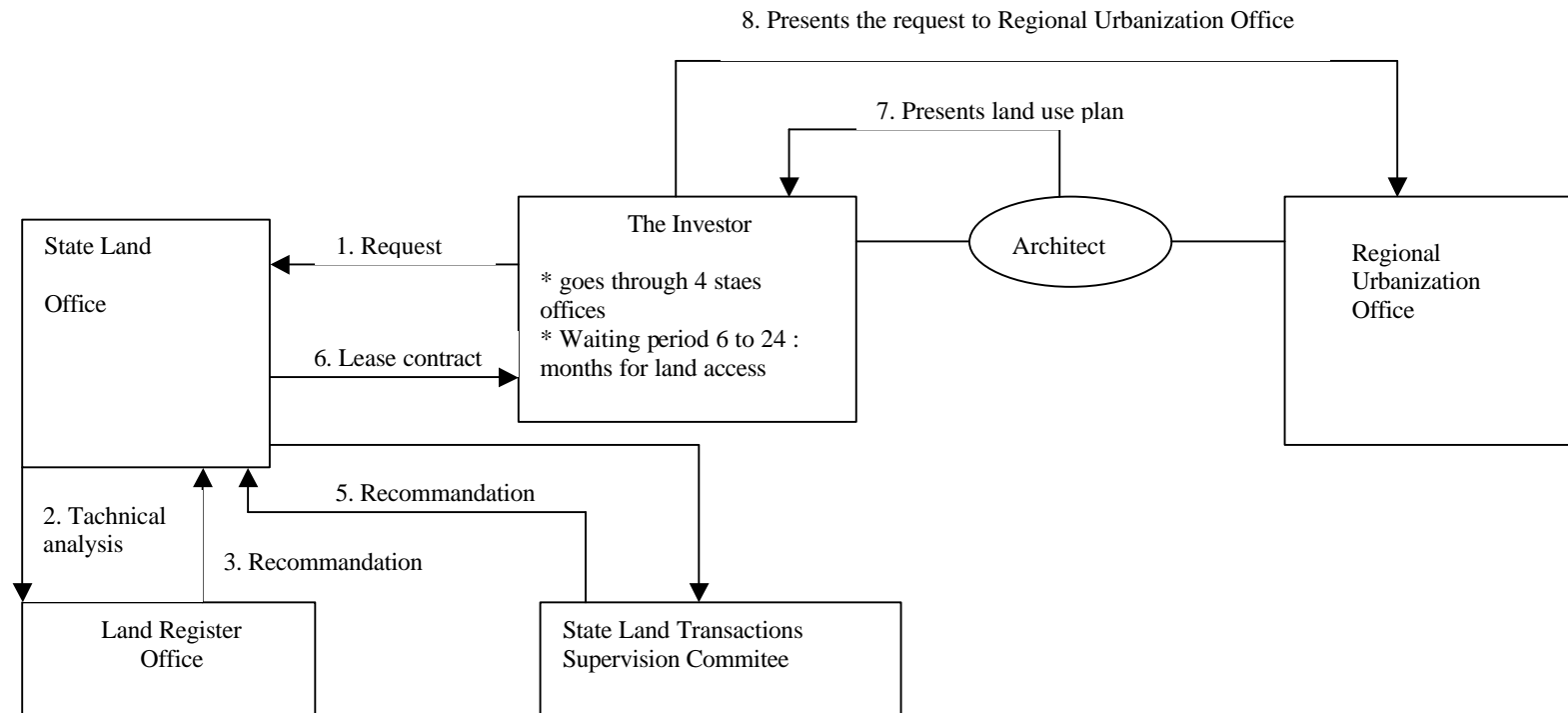
173. The State Land Transactions Supervision Committee is required to make recommendations on the opportunity, the legality and the financial conditions relating to all transactions on the State private property and companies. The documents submitted to the committee include the following :

- A detailed explanatory and supportive letter;
- A precise description, a plan of the building as well as complete information on the legal status ( land registration number etc...)
- An estimate of the market or the rent value according to real estate or leasing laws;
- The conditions under which the project will be implemented; and in case of purchase or renting, the way payment will be secured.

174. The committee is convened by its Chairman and at least four members must be present.

175. Finally, a land use plan must be produced by a State accredited architect. This plan must be submitted to the Regional Town Planning Office. The waiting period varies but it is generally between 6 and 12 months to obtain the approval of that office. Figure 4.1 presents the main elements of the procedure.

**Figure 4.1: Obtaining State Owned Land**



## 2. Acquisition of privately owned lands

176. Instead of requesting land from the State, an investor can directly negotiate with a private owner. For this purpose, he must first of all contact a notary who makes sure that the proposed land title is valid. Following this examination, a sale document is prepared and registration fees, change of ownership fees are paid to the Tax Department. In case of partition of a land, a file is sent to the Land Office for the creation of a new and separate title. Upon completion, the file will be sent to the notary. In general it takes two or three months to complete the formalities of acquisition of a privately owned plot.

177. If land costs more than CFA 10 million, it is necessary to obtain the authorization of the tax administration before proceeding with the operation.

## 3. Acquisition of Industrial Land - Dakar Industrial Park ( SODIDA )

178. Companies wishing to establish themselves at the Industrial Park of Dakar must fulfil the following conditions :

- be a Senegalese legal entity;
- be a small or medium-size enterprise (i.e have an investment program between CFA 3 and 200 million with the maximum of 100 employees);
- the majority of the capital owned by Senegalese nationals.

179. Companies are selected according to the following criteria :

- High percentage of local processing ;
- No installations that may cause high environmental damage unless provided with a waste treatment system ;
- Preferably companies with high technological level and capable of making innovations;
- Preferably companies with a variety of products and with small to average production
- Companies with basic structures (resources, management, team organizational capacity, human resources, market access) allowing them to improve their operations
- Preferably labour intensive companies.

180. **Request.** For operating companies, the investor must submit a request to the Directorate General of the Industrial Park (SODIDA) which transmits, the request to its Supervision Department. This department conducts investigations on the applicant before presenting the request to the Selection Committee for approval.

181. For a new company, the investor must make a request to the Directorate General of SODIDA with a feasibility study of the project. SODIDA's Supervision Department assesses the request then presents it to the Selection Committee which meets once every three months. If the request is approved, a letter will be sent to the investor and a contract drafted to certify that the company may operate in the Industrial Park. The investor will receive the original of the contract and SODIDA will retain a copy. After receiving the contract, the investor must register at the Directorate General of Lands and Taxes and pay a tax equivalent to 5% of the annual rent. The rent is CFA 1,000 per square meter for built areas and CFA 100 per square meter for non-built areas.

182. Upon completing administrative requirements, the investor must contact public utilities services to obtain electricity, water, telecommunications etc...

#### 4. Acquisition of agricultural land

183. The investor who wishes to acquire land for agricultural purposes must contact the Rural Council of the relevant area. The Council represents local inhabitants in all matters relating to land use.

184. **Request.** The investor sends a letter to the Chairperson of the Rural Council indicating the land and the total area requested. After receiving the request, the Chairperson calls a meeting of the Rural Council which includes about 21 members chosen among those who have their legal residence in the village, civil servants or state employees; members of the Local Outreach Services and representatives of local agricultural cooperatives.

185. The Council examines the request and gives its opinion after discussions. The Local Outreach Service also issues a recommendation. Both recommendations are transmitted to the prefect, the Local administrative authority, who takes the final formal decisions. These decisions are transmitted to the relevant Ministry and become legal if after two months they have not been approved, disapproved, or modified by the Ministry. The investor must then pay the cost for making the boundaries of the allocated piece of land.

#### 5. The Export Processing Zone (ZFI) of Dakar

186. **Status of Lands and Constructions.** All lands in the zone belong to the State. The lands which the State did not own at the publication of the decree referred to in Article 2 of Law 74-06 defining the Export Processing Zone of Dakar (created for 25 years) can be declared lands of public utility by the State. If those lands are registered titles, the owners may be appropriated in accordance with the existing laws. If the lands are part of the national property, they may be registered as belonging to the State.

187. These lands are leased by the administration of the Export Processing Zone. A building permit issued by the Director is required for all constructions. In the case of a sale or transfer of the lease to another investor, it is necessary to request prior approval from the administration of the zone.

#### Analysis

188. The formalities required from investors to have access to land are complicated and time consuming. The entire process may take up to 5 years when an investor wishes to lease or buy State owned plot. The complexity of the process may be demonstrated with the following examples:

- The Land Transactions Supervision Committee meets only when there are enough requests to examine: this is a cause of delay for the first applicants;
- The large number of multitude of technical approvals at the Land Registry Center causes between 6 months and one year delays.

- Inflation has created a situation whereby the majority of private lands cost over CFA 10 million and therefore require an authorization from the Tax Administration
- The Land Office is not computerized and the Land Register is understaffed;
- The Land Register takes a long time to come and mark the boundaries on acquired lands.
- The lack of available land in the SODIDA Industrial Park causes long delays, twenty companies are on a waiting list. SODIDA has identified a new site in the city of Pikine, but the Land Registry Office has not granted approval yet ( it has taken more than 2 years).
- The SODIDA Selection Committee meets once every three months. This does not allow to examine all the requests from companies wishing to be located in the SODIDA Park.

### Recommendations

189. In order to simplify the procedure of land acquisition from the private domain of the state, it is recommended the following :

- Convene more frequently the State Land Transactions Supervisory Committee( for example once every weeks);
- Produce a guide including all laws and procedures relating to land issues for the use of companies wishing to establish themselves in Senegal;
- Rationalize all procedures related to the creation of land titles( especially land partition).
- Computerize the Land and Tax Administration;
- Examine way to increase the efficiency of approval committees which should meet every month, for instance, rather than every 3 to 4 months.
- Eliminate the need for the tax administration approval to purchase a piece of land exceeding CFA 10 million.

190. In addition to these recommendations, having access to state-owned land is so complex that it is necessary to have a thorough review of the public lands development policy.

### **B. Site Development and Construction**

#### **Regional Urbanization Service**

(Service Régional de l'Urbanisme)

Tel : 22 20 26

Contact: Mr Mar Ba, Head of Construction Permits

191. It is required to have the approval of the government authorities to develop sites, to erect and occupy buildings. The Regional Urbanization Service is responsible for all

procedures relating to buildings and construction through it 3 offices : the Construction Permit Office. The Construction Supervision and Land Occupation Office; and the Study and Use Office. The process is summarized in figure 4.2 below.

**192 Request.**(Construction Permit Office). After acquiring land, the investor must request from the Regional Urbanization Service a certificate indicating that it is allowed to have a factory and / or buildings in the area. To this end, it is necessary to provide the following documents :

- Five copies of a written request ;
- Five copies of the construction blueprint;
- An information form in 5 copies;
- A breakdown of costs in 5 copies;
- A receipt of the town planning tax (CFA 5000 maximum) ;
- A revenue stamp (1000 CFA)
- A land title and a document indicating the location of the land issued by the Land Office.

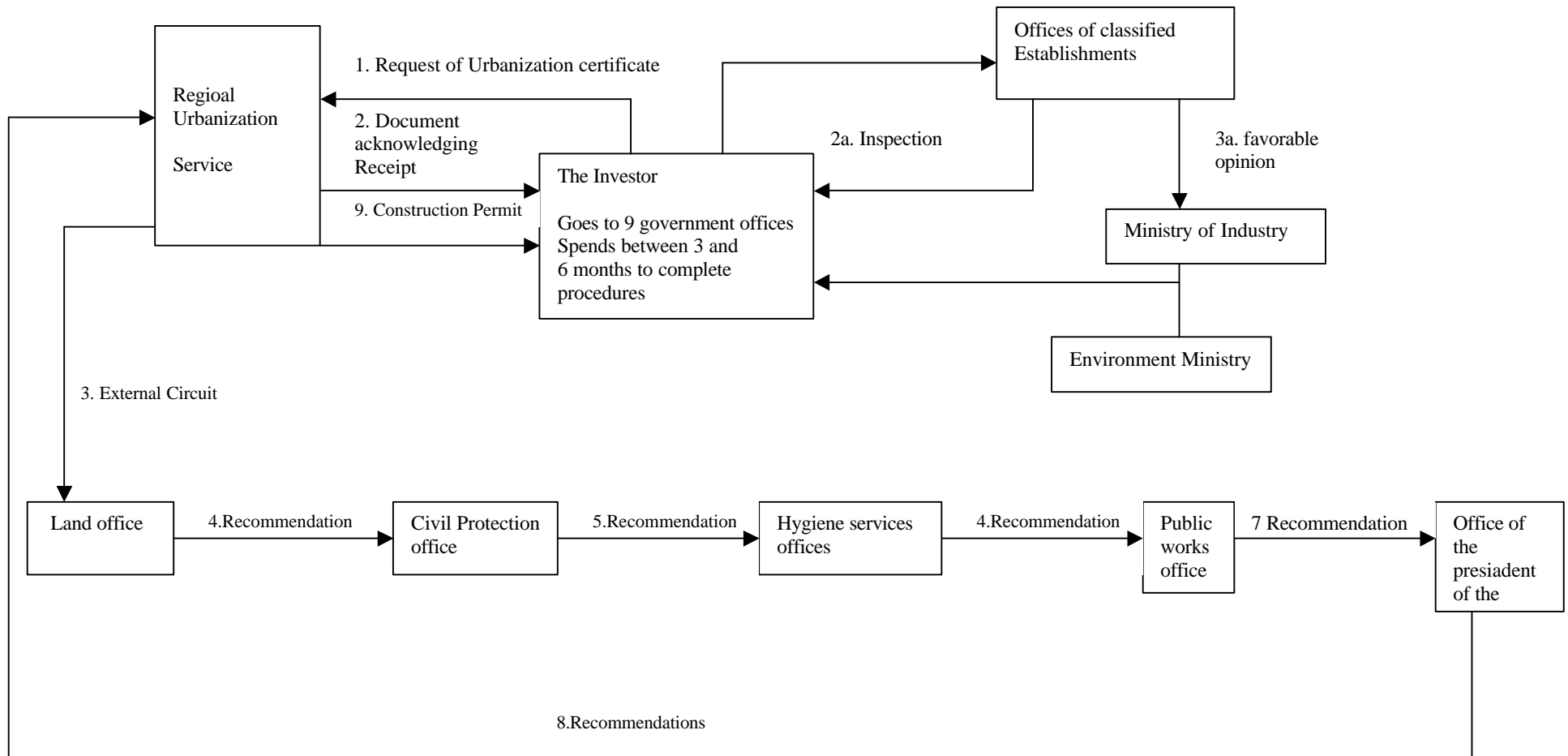
193. These documents are submitted to the Regional Town Planning Service which issues a certificate acknowledgement of receipt. After verifying that all documents required have been supplied, the service declares the request either a complex one ( green file) or a simple one (rose file).

194 Green file (complex file). The technical recommendations of the following services are required:

- Land and Land Register Office;
- Civil Protection Office:
  - High rises;
  - Buildings receiving a large public (commercial centers, restaurants, hotels, tourist hostels etc.);
  - Classified Installations (dangerous polluting ; nuisance installations). For instance industries, stocking hydrocarbons (refineries, gaz station); bakeries, workshops; printing shops, animal husbandry; slaughter houses etc...
- Hygiene Office;
- Public works Office,
- Office of the President of the Republic ( exceptionally for lands located in the security perimeter of the Presidential palace).



**Figure 4.2 : Construction Permit (Complex File)**



195. The file is then returned to the Regional Town Planning Service for further study. The request is not approved in the following cases :

- One of the external recommendations is negative;
- Land occupancy rules are not observed (Town planning rules applying to the land);
- The file has not been approved by an architect (for cases where it is required).

196. **The Rose file (Simple file).** The Rose file is examined only by the Regional Urbanization Service. Generally speaking, these files have already been approved by the Town Development Central Company (Scat-Urbam); The Senegalese Housing Bank (BHS); The National Social Housing Company ( SNHLM); and Housing Cooperatives affiliated to the Senegalese Housing Bank.

197. **The Supervision Office.** This office is responsible for issuing certificates of conformity; complains and supervision of constructions. The investor must submit his/her construction permit to this office. The permit must be signed by the local mayor's services and should be accompanied by the ownership documents, and a completed conformity certificate form provided by the Regional Town Planning Service. Following a payment of CFA 5,000 at the Land Registry, a " conformity visit" is conducted by a civil servant of the Regional Service. If the building complies with the construction permit, the owner is issued the certificate of conformity in less than a day. This certificate allows to benefit from a ten year tax exemption (authorized by the Regional Office of Land and Taxes).

198. **The Land Development Office.** This office is in charge of the requests for land development; land transactions; requests for town planning certificate; land requests; requests for land development approval. The file should include the ownership title; 10 copies of the land development project; a draft charter of the association of future owners; building conditions; a CFA 5,000 revenue stamp and a CFA 5,000 tax .

199. The file is examined by the Public Works Office and the companies providing basic services (water-company, sewage company, electricity company) The Office then drafts an authorization letter which must be signed by the mayor (as required by the new law on decentralization). During the implementation phase, it is indispensable to have the Land Development Authorization certificate.

#### Analysis.

200. The construction of buildings must be subject to supervisions and evaluations from public authorities. However in Senegal the procedure lacks efficiency and is a cause of many delays for the investor. Completing the requested paperwork to obtain the construction permit is a perilous exercise that requires too much time. As regards the complex files ( green files), the procedure is too long and most of the required recommendations are not necessary. For instance, the need to consult the office of the President of the Republic seems far fetched and in many cases, there is a lack of good communication between the various services. The investor must follow up at various levels during the entire process, which is significant waste of time, and has a discouraging effect.

201. Because of the decentralization, Mayors are required to play a more important role in the issuance construction permits. However, they do not have the technical expertise to examine the requests. So far, it is the Regional Town Planning Service that examines requests.

### Recommendations

202. The Senegalese Government should simplify the process for obtaining a construction permit. The content of the file should be simpler and the various offices consulted reduced. In this respect, it is really not necessary to involve the Office of the President of Republic in this process. The technical capacity of mayors should be reinforced to comply with the policy of decentralization pursued by the government.

### C. Impact on the Environment

#### **Office of Listed Enterprises**

(Bureau des Entreprises Classées)

Ministry of Environment

Tel : 822.38.48

Contact Mr. Alioune Diop

203. Any company with installation classified in the first or second category is covered by the Environment Code (law n° 83-05 of January 28, 1983). The first category includes all enterprises whose operations are authorized subject to the adoption of measures destined to prevent dangers related to security, health public safety and agriculture. The second category includes companies which do not present serious a threat to the above- mentioned areas listed in the first article, but are subject to prescriptions of a general nature to ensure that protection of such interests are safeguarded

204. **Request.** The investor must submit a request indicating the activities of the company accompanied by the following :

- Description of the activities;
- Location map;
- Detailed area map;
- Map of the installations;

205. This file should be presented in 5 sets for first category companies and 3 sets for second category ones. The documents will then be sent to the following offices :

- Office of the listed companies;
- Office of Mining and Geology;
- Office of Civil protection;
- Ministry of Environment and Protection of Nature;
- Ministry of Mining, Industry and Energy;
- General Secretary of the Government.

206. Upon receipt of the documents, the employees of the Office inspect the land. For first category enterprises, it is necessary to have a joint agreement of the Ministry of Mining, Industry and Energy and the Ministry of Environment before constructions can start. Following a favorable inspection, the Office of Classified Enterprises drafts an authorization to be signed

by the two Ministers. It takes about 45 days to obtain the final authorization. Classified companies are subject to the annual taxes indicated in table 4.1 below.

**Table 4.1**  
**Listed Enterprises Taxes**

DESCRIPTION	AMOUNT IN CFA	COMMENTS
Fixed taxes		
- First category enterprise	30,000	a year
- Second category enterprises	10,000	a year
Area taxes ( built or equipped area)	150	per square meter a year
Area taxes (area not built or not equipped)	75	per square meter a year

207. For high risk enterprises, a public inquiry is required before the drafting of an order for the authorization. This inquiry leads to the issuance of a ruling which is also signed by the two Ministers. The Governor of the relevant region organizes the public inquiry and chooses a commissioner who must inform the population by radio, paper, and television on all aspects of the project. Based on the results of the inquiry, the Governor gives a final recommendations and the order can then be signed.

208. The Office of Listed Enterprises, in order to reduce delays, recommends that the request for environmental authorizations be accompanied by the request for a construction permit.

#### Analysis

209. A large number of offices are involved in the assessment and issuance of the environmental authorization. They seem to duplicate the tasks because they more or less look at the same aspects of the projects.

#### Recommendations

210. The number of offices involved in the process of assessment and consultation should be reduced to the strict minimum necessary. The recommendation and signature of one Ministry ( that of Environment) seems necessary to issue the approval orders for the first category and second category enterprises.

#### D. Electricity

##### **National Electricity Company**

(Société Nationale d'Electricité)

BP : 93

Dakar

Tel : 823.72.82

Contact: Mr Dioum, Head of Subscription/Termination

211. In order to install a low voltage electricity connection, an investor must make a subscription request at the Commercial Desk of SENELEC. Companies are requested to show their business registration documents.

212. After receiving the request, the technical department of SENELEC inspects the company to check if additional work on the installation is necessary. If the installation is fine, a " connection work order is issued" with a bill to be settled by the company before the connection is made. According to the Subscription Office, the connection can be made in three days if no additional work is necessary on the company's own electric installations.

213. For a subscription of medium and high voltage which is often what the industries need, the process is more complicated. First of all, the department of medium voltage equipment must inspect the company installations to define the specific and technical needs. Then, the Department drafts a report submitted to the Department in charge of Special Customers. The company must bear the cost of installation of the meter by SENELEC. For this purpose, the company must make a written request to the Director General of SENELEC enclosing the a copy of the identity card of the investor or the company's business registration

214. Upon reception of this request, the company's electrical consumption is estimated and the company must pay in advance part of this estimated bill, the cost of installing a meter and the stamps. After a technical evaluation of the request, a contract is prepared and signed. The Head of the Department of Special Customers must identify the customer based on the official documents submitted, the amount paid in advance, and the revenue stamps. If all information tally, the Head of Department issues a subscription number to the company and sends the contract to the Head of the Commercial Service for approval and subsequently to the Director General for signature. The cost of electricity is presented in the table 4.2 below :

**Table 4.2**  
**Cost of electricity**

	Fixed monthly cost (CFAF / KWH)	Cost of Energy (CFAF / KWH) K 1 (Peak hours: 19 h to 23 h	Cost of Energy (CFAF / KWH) K 2 Remaining time
1)Medium Voltage			
- Short use	594.6	112.04	77.4
- General use	529.84	80.63	55.88
- Long use	6,106.16	66.24	45.89
High voltage	6,197.85	46.55	36.48

## Analysis

215. Almost all companies met by FIAS complained about their relations with SENELEC. According to the latter, the necessary time for a connection is about three days; however, in reality several months are necessary. Electricity outages are frequent and costs are fairly high. The quality of the service is low because of a high technological deficiency. The frequent strikes of employees are also one of the causes of power outages.

216. Power outages have a negative impact on company productivity. A Senegalese company has indicated that for every outage, it took them one hour and half to re-start all machines. ( cf Table 4.3 for details).

**Table 4.3**  
**Power outages**

<b>Year 1998</b>
Total number of outages during the year: 10,566 minutes or 176 hours, 6 minutes, for 225 outages
225 outages: 210 hours lost for re-installing the machines
Total number of hours factory stopped: 50 hours
Total number of hours lost: 436
<b>Year 1997</b>
Total number of outages during the year: 9,749 minutes or 162 hours 28 minutes for 226 outages
226 outages = 194 hours for re-installing
Total number of hours lost: 356
Hourly production: 170 Kg
Total production lost: 60,520

## Recommendations

217. The Senegalese Government is about to privatize SENELEC, this should improve its service as it has been the case with recently privatized companies.

### E. Telecommunications

#### **Senegalese National Telecommunications Company ( SONATEL)**

(Société Nationale des Télécommunications du Sénégal)

BP: 69

Dakar

Tel :

Contact: The Marketing Department.

218. Procedure for obtaining a telephone line varies according to the type of request. The latter can be a connection to a house or to a company.

219. **Request.** The investor must make a request to the Marketing Department of SONATEL. Installation fees are paid when the request is registered. A description of the fees is detailed in the Table 4.4. The contract is prepared with revenue stamps and the stamp of the marketing Department. According to the SONATEL it takes 10 to 20 minutes for customers to receive their contracts.

**Table 4.4**  
**New Telephone Connection and Communication Tariffs from July 1, 1998**  
 Connection costs for Urban Areas

Costs (in CFAF) Tax free, VAT to be added

	<b>Home</b>	<b>Company</b>	<b>State</b>
Deposit	16,500	44,000	0
Connection	19,500	19,500	19,500
Revenue stamp	4,000	4,000	0
Total Cost	40,000	67,500	19,500

Costs in CFA all taxes included

	<b>Home</b>	<b>Company</b>	<b>State</b>
Deposit	16,500	44,000	0
Connection	23,400	23,400	23,400
Revenue stamp	4,000	4,000	0
Total Cost	43,900	71,400	23,400

Costs for rural areas

	<b>Home</b>	<b>Company</b>	<b>State</b>
Deposit	16,500	44,000	0
Revenue stamp	4,000	4,000	0

220. **Connection.** In calculating the connection costs, the distance between the requester's location and the central system of the telephone company is taken into account:

- between 0 and 5 kilometers: the connection is CFA 19,500 without VAT;
- between 5 and 15 kilometers: CFA 19,500 without VAT plus 10,700 CFA per additional Kilometer plus VAT.
- over 15 kilometers: flat rate of CFA 126,500 plus VAT.

#### Analysis

221. In general, investors are satisfied with the services of the SONATEL. Procedure for obtaining a connection are fairly simple and the waiting period is often less than a week.

#### Recommendations.

222. The Senegalese Government should accelerate the liberalization of this sector so that SONATEL may have access to the new technologies it has not acquired yet.

### F. Water and Drainage

#### **Senegalese Water Company**

(Sénégalaise Des Eaux)

Hann Center

Route du Front de Terre

BP : 224

Dakar

Tel :

Contact

#### **National Drainage Company**

(Office Nationale de l'Assainissement du Sénégal)

Cité TP SOM N° 4

Tel : 832.35.34

Contact :

223. In order to have access to running water, the investor must make a request for a connection at SDE Sales Department. If the investor is the owner of the company, he/she must present an identification document and occupation titles. If he/she is renting, he/she must produce an identification document plus the rental contract signed by the owner. According to SDE, it takes 7 days to have a connection. Table 4.5 shows the cost of the water and drainage services.



224. In order to obtain a connection to the drainage system, the investor must make a written request to the Director General of ONAS. The request must be submitted with a bill indicating that the investor is connected to the running water system. A receipt is issued to the investor by ONAS upon payment of CFA 3,988. Afterwards, ONAS issues a connection bill and sends its technicians to assess the company needs. The connections is completed in a week according to ONAS.

#### Analysis

225. Delays experienced by investors for a running water connection exceed a week. Though SDE has been privatized, the service has not yet been improved even though the procedures have been simplified.

#### Recommendations

226. The Senegalese Government should have conducted a survey among the customers of SDE to identify the cause of the long delays for water connections

**Table 4.5**

#### **Costs of water and Drainage**

##### **Costs of connection (CFA)**

<b>Diameter (mm)</b>	<b>15mm</b>	<b>20mm</b>	<b>30mm</b>	<b>40mm</b>
Cost of connection	115,000	120,185	315,964	510,942
CFA	+ 400 stamp	+ 400 stamp	+ 600 stamp	+ 1200 stamp

#### **Consumption costs**

<b>Type of operation</b>	<b>Type of consumer</b>	<b>level of consumption (cubic meter /month)</b>	<b>Cost of water CFA/m3 with taxes</b>
City with drainage	Individual with a 15 mm meter	From 0 to 20	165.17
		From 21 to 100	563.44
		Over 100	647.31
	Individual with a 20 mm meter or other companies	From 0 to 100	563.44
		Over 100	647.31
	Vegetable gardeners	From 0 to 3,000	105.81
		from 3,000 to 20,000	149.35
		Over 3,000	563.44

City without drainage	Individual with a 15 mm meter	From 0 to 20	165.17
		From 21 to 100	532.10
		Over 100	611.14
	Individual with a meter of 20 mm or over and corporations	from 0 to 100	532.10
		Over 100	611.14
	vegetable gardeners	From 0 to 300	105.81
		From 300 to 20,000	149.35
		over 20,000	532.10

#### G. Post -Office

227. In order to obtain a P.O Box, the investor must make a request to the office of Post Office Letter Boxes. For companies, associations, and other entities, the annual cost is CFA 16,200. For individuals, the cost is CFA 6,600 . Companies must present their charter and buy the lock and keys to the box for CFA 1,500. According to the Post Office civil servants, a box can be obtained in less than a day.

228. If the requester wishes to keep the box for more than a year it is necessary to submit to the Office of Post Office Letter Boxes another subscription request.

#### Analysis

229. The number of letter boxes in Senegal is not sufficient and therefore requests are not satisfied in a day. In fact, one can be on a waiting-list for several weeks. Private International Courriers operating in Senegal -DHL, Emery Express- indicate that the Senegalese Post tries to keep a monopoly and forbids them to operate in regions. However, the growth of these private services indicates the quality of national services.

#### Recommendations

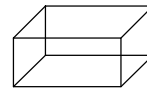
230. The Senegalese Government should continue to encourage the development of private courier services and continue to liberalize this sector. In addition, more letter boxes should be made available to satisfy the growing needs of enterprises.

Figure 4.3 : Comparative analysis of land acquisition sita development and utilities

Formality	Country	DURATION					
		3 months	6 months	9 months	12 months	15 months	18 months
Water services	Senegal						
	Mali						
	Jordan						
	Malaysia						
	Chile						
	Zambia						
	Tanzania						
Electricity Services	Senegal						
	Mali						
	Jordan						
	Malaysia						
	Zambia						
	Tanzania						
Telephone Services	Senegal						
	Mali						
	Jordan						
	Hungary						
	Chile						
	Zambia						
	Tanzania						



Minimum deadline



Maximum deadline

Source : The Services Group

231. Delays and uncertainties related to the purchase of lands and site development are significant obstacles for the majority of investors. This is particularly true for foreign investors who wish to enter a partnership with nationals who are already land owners. Table 4.3 shows a comparative analysis for a set of countries. If there are waiting periods for a number of countries, it is still possible to shorten them through a variety of methods. For instance, large plots of land may be identified by various users and given to investors to increase the stock of private lands. Another method would be to increase land reserves for industrial and commercial purposes and have them managed by the private sector with the possibility for companies to rent or buy them easily. In Senegal, this strategy has been used to a certain extent at the SODIDA industrial park for exemple. The Export Processing Zone has available plots, but the procedures for acquiring them are not transparent. Other projects such as the Dakar Technopole are not completed yet. In sum, the current situation in the Dakar region is not encouraging for the establishment and development of new industrial sites.

232. Site development approval procedures are long in Senegal but not worse than in many other African countries. In the field of basic infrastructures, Senegal even has comparative advantages in telecommunications systems and access to water services. However, for electricity, Senegal is less advantageous. However some progress has been made in these fields especially with the privatization of companies such as SONATEL.



## CHAPTER V

### OPERATIONAL PROCEDURES

233. Companies must fulfil a number of procedures once they start their operations. Among them is the access to foreign currency, import-export operations and recruitment of employees. To a certain extent these procedures are similar to those examined in chapter II, but they are studied during the phase of operation of companies and not the creation phase.

#### A. Foreign Currency Exchange Control

##### **Department of Money and Credit**

(Direction de la Monnaie et du Crédit)

Ministry of Economy, Finance and Planning

Contact : Mrs Dieynaba

##### **Central Bank of West African States**

(Banque Centrale des Etats de l'Afrique de l'Ouest)

Dakar Agency

BP :3159

Tel (221) 823.53.84

Contact : Mr Abdoulaye Gaye, Head of the Department of Studies

234. Senegal is a member of the West African Economic and Monetary Union (WAEMU) and shares the same currency - the CFA franc - with the other member states. The fixed exchange rate (0.01 French franc for 1 CFA franc) is based on an agreement between the Regional Central Bank (BCEAO) and the French Treasury - Table 5.1 summarises the provisions of the exchange rate system.

235. A common provision for current transactions and capital transactions is that a 0.25% fee is charged by the banks for all transfers to countries that are not members of WAEMU. The amounts collected from the fees are handed over to the Senegalese Treasury.

236. *Current transactions.* The exchange rate procedures for importing goods of a value equal to or over CFA 5 million(s) consist in (i) conducting the transaction through a local bank by providing a supplier invoice; (ii) obtaining a currency exchange authorization. A key element is that today all commercial banks have a delegation of power from the monetary authorities to issue currency exchange permits. For this type of transactions the Department of Money and Credit, in conjunction with the West African Central Bank only concentrates on punctual, *a posteriori* controls. Consequently, obtaining foreign currency for importation purposes is immediate. It should be noted however, that an authorization of the Department of Money and Credit is required prior to making any advance payment for imported articles (6). Commercial Banks are not entitled to grant such an authorization, which is indeed only necessary out of the franc zone, since capital movements are free in the zone as detailed below.

6 It is not clear whether the February 1, relaxation measures abolish the authorization obligatory before the payment of the deposit out of the franc zone

7 The franc zone is composed of the CFA zone (WAEMU and CEMAC), France and Monaco.

237. The currency exchange regulations are on the contrary, slightly more restrictive concerning exports; in particular exports out of the CFA franc zone. Likewise, exports must be carried out through a local bank if they exceed CFA 5 million, and the product must be paid entirely to an account of the local banks used. All foreign currencies obtained from exports must be remitted to the West African Central Bank one month after the payment is due. It should be noted however, that since February 1, exports to CFA countries are no longer subject to the domiciliation requirement and to the repatriation of profits..

238. *Capital transactions.* Foreign investors in Senegal are not subject to the aforementioned exchange rate controls, but they must declare their investment at the Department of Money and Credit for statistical purposes. However, the repatriation of capital following a liquidation of a foreign investment or the transfer of profits gained from a foreign investment are subject to an authorization of the Department of Credit and Currency prior to the transfer. The amount that can be transferred in the two cases mentioned above are not limited however, and the authorization is to examine the validity of the request (8). For a liquidation, the effective transfer must be declared to the Department of Money and Credit within 20 days following the transfer.

239. On the other hand, all investments made out of the CFA zone by Senegalese Residents, whether they are direct or portfolio investments, and including direct investments made through foreign companies directly or indirectly controlled by individuals residing in Senegal, and investments made by foreign branches or subsidiaries of companies incorporated in Senegal, are subject to prior approval of the Department of Credit and Currency. These investments should also be funded up to 75% by foreign borrowings. Investments made by Senegalese Residents inside the CFA zone are not subject to this approval or to the requirement that 75% of the investment be a foreign borrowing.

240. Since January 1998, residents (individual or moral entities) are allowed to open foreign currency accounts in the resident banks. However, to that effect, to obtain BCEAO prior approval. In actual fact, it seems that no or very few accounts have been authorized by the Central Bank of West African States (BCEAO). It should also be noted that the obligation to liquidate the product of exports in the banking system means that these foreign currency accounts must be funded with capital transfers from abroad. Foreign currency accounts of non-residents in resident banks are also subject to prior authorization of the Central Bank. Finally, it is practically impossible for non-residents to hold foreign currency accounts in the resident banks because of the obligation to repatriate funds from exports and of the restrictions on transfers of capital abroad.

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8 In case of a liquidation, the authorities would like to control the regularity of discontinuance of business and, if possible, discharge of debts due to Senegalese nationals

**Table 5.1**  
**Main provisions on exchange control**

			<b>Rules</b>	<b>Prior authorization of the Monetary authorities</b>
	Imports		Free, except payments in advance	
<b>Current transactions</b>	Exports		Free for exports between CFA countries. For exports out of the CFA zone, 100% of foreign currencies must be transferred to the Senegalese banking system	No
<b>Capital transactions</b>	Foreign investment (direct and portfolio)	<b>Initial investment</b>	Free with a posteriori declaration for statistical reasons	No
		<b>Repatriation of profits</b>	Free, no limitation on volume	Yes for transfers out of the franc zone
		<b>Repatriation of capital</b>	Free, no limitation on volume	Yes for transfers out of the franc zone
	Foreign investment (direct and portfolio)	<b>Initial investment</b>	75% of the investment out of the franc zone must be funded by foreign sources	Yes for investment out of the franc zone

### Analysis

241. The 0.25% fees on all transfers outside the CFA zone (WAMU) in order to promote regional integration is lower than the taxes charged other countries of the zone. In Mali for instance, they are 2.5%. However, given the current foreign investment sources, actual and potential (of which France is the first), one can ask whether this tax which has a fairly significant impact on the profitability of investments, is not after all negative for the country because of the international competition among investment sites. Moreover, the information provided to the mission by the Senegalese authorities indicates that this tax provided low to negligible revenues

242. *Current transactions.* In general, the convertibility of the CFA guaranteed by the support of the French Treasury, makes the foreign currency exchange laws relatively easy. Obtaining foreign currency for imports from non-CFA countries does not seem to be a major problem, especially since the Department of Credit and Currency and the BCEAO have agreed to delegate part of their authority to the commercial banks and have consequently eliminated the prior authorizations.

243. It is necessary to qualify the general judgement on the need for prior authorization to make a deposit. This provision is disturbing and does not seem completely eliminated by the new February 1999 regulation. Many foreign dealers are likely to request an advance payment, especially those outside the franc zone, namely because Senegal has to improve the perception of country risk.

244. *Capital transactions.* The difference in treatment between the foreigners (free to invest in Senegal) and the Senegalese residents (whose direct investment out of the franc zone is restricted) may be disturbing and become even more so with the country's gradual development. Without even mentioning the economies of industrialized countries, it should be recalled that one of the permanent features of countries with strong economic



take off is the export of capital. Besides, it is very difficult to make sure that the criteria of 75% of internal borrowing to finance the investment was respected, since the investment itself was made abroad.

245. In countries with a similar situation<sup>(9)</sup>, currency controls on direct investment abroad have often been less strict than those on portfolio investment. If it is generally admitted that the flight of short term capital, in reaction to a deterioration of the investors' expectations - especially as regards exchange rates stability - can have a destabilizing effect on the country's economy, it should normally not be so for direct investments.

### Recommendations

246. It is advised to eliminate the 0.25% tax on transfers outside the franc zone for the above stated reasons.

247. *Current transactions.* It is suggested to make sure that the import system may be used to make advance payments outside the franc zone. It would then be possible to delegate to commercial banks the authority to exchange currencies, for example on presentation of commercial documents including a pro- forma invoice. Because the transaction is conducted through a commercial bank when it is over CFA 5 million, the commercial bank could also follow up and make sure that the import operation has taken place after the transfer.

248. *Capital transactions.* It is advised to relax the conditions imposed on Senegalese residents for direct investment abroad by eliminating in the future the preliminary authorization and by lifting at once the obligation to finance 75% with foreign resources. The definition of direct investment used in the current regulation is appropriate <sup>(10)</sup>. As regards portfolio investment abroad, it is also advised to eliminate the obligation to finance externally 75% but to maintain the preliminary authorization for the moment.

### B. Import-Export Card (CIE)

#### **Department of External Trade**

(Direction du Commerce Extérieur)

Ministry of Commerce and Handicrafts

Rues Leblanc and Emile Zola

Dakar

Tel : (221) 821.57.25

(221) 822.09.32

Contact : Mr Amadou Habibou Ndiaye, Director of External Trade

249. All companies wishing to carry out an import or export operations, even for their own use, must have an Import-Export Card (IEC). It is possible to conduct exceptional import or operations export without having an IEC provided that a request is made to the Ministry of

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9. See, for example OCDE (1993), *Exchange Control Policy*

10 The law specifies that direct investments mean investments which implies participation in a company or an enterprise. A mere participation is not considered as a direct investment as long as it does not exceed 20 % of a company capital

Commerce for an authorization; but this procedure is not used, because it is probably more bureaucratic and cumbersome than to obtain the card.

250. The first request for an IEC must be directly made to the special unit of the External Trade Department with the following documents :

- a CFA 3,000 information form;
- a certified copy of the trader's professional or (more recently) a business registration card;
- a document proving that one is registered to file taxes;
- two CFA 5,000 stamps;
- two identity photos
- moral entities must submit their notarized charter;
- a CFA 8,000 tax must be paid for the issuance of the card which is provided by private sector company under contract with the Government.

251. Recently, progress has been made in the time necessary to have the IEC, which can now be obtained in a few days, or even a day. The card is valid for a period of 4 years. It can be renewed upon presentation of following documents : (i) a document proving that one has paid taxes ; (ii) a document proving that one has not been condemned by the customs.(iii) a document from the Department of Credit and Currency proving that one has not violated any foreign exchange regulation.

### Analysis

252. Sub-contracting the issuance of import export cards and the management of related data has considerably reduced delays and may serve as an example for other procedures.

253. Renewing a card seems however, more complicated than obtaining it for the first time. This may encourage people to bypass the regulations by creating bogus companies. To obtain the final fiscal discharge is in itself, fairly difficult.

254. In actual fact, an in-depth analysis of the situation reveals that the usefulness of the IEC is doubtful. It is not used to assess the competence of the external trade professionals as it is granted to all those who are involved in external trade activities, including for their own benefit. It does not seem that the delivery of the card for the first time has ever been denied to an applicant, which implies that the procedure is not controlled by the authorities. Moreover, the information collected in the process and which may even justify its existence, does not seem to be particularly used since it is neither officially processed nor published. Finally it should be noted that the IEC has no equivalent in most industrialized countries <sup>(11)</sup>.

### Recommendations

255. Given the administrative cost and the little usefulness of the procedure, we recommend its elimination. External trade will then become open to all individuals and moral entities in accordance with the other provisions governing the activity.

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11 On the other hand, there are similar provisions in other WAEMU countries, for example in Mali where its elimination was recommended by FIAS.

## C. Imports and Exports

### **Department of External Trade**

(Direction du Commerce Extérieur)

Ministry of Commerce and Handicrafts

Rue Leblanc and Emile Zola

Dakar

Tel : (221) 821.57.25

(221) 822.09.32

Contact : Mr Amadou Habibou Ndiaye, Director of External Trade

### **Customs Department**

(Direction Générale des Douanes)

Ministry of Economy, Finance and Plan

5, Place de l'Indépendance

BP4033

Dakar

Tel : (221) 21.13.28

Contact : Mr Moustapha Tall, Director General

256. Senegalese imports are subject to an Import Verification Program (IVP) managed by SGS under a service contract with the Government of Senegal. The general objective of this program is to increase the country's customs revenues and the transparency in determining the customs tax values of imports. SGS works mainly through inspections of goods before they are taken away for any declared import equal or superior to CFA 3 million, and the static and electronic follow up of any transaction superior or equal to CFA 1 million. It should however be noted that some imports are not subject to inspections by SGS whatever their value may be. These are gold, unfrozen perishable consumer goods, aircraft spare parts. Imports of companies in the Industrial Free Zone or Tax Free Zones, as well as goods exempt from taxes, for instance following the provisions of the Investment Code. The importer does not bear any cost of the IVP which entirely funded by the Government's budget.

257. Table 5.1 makes a summary of the main import procedures. For any activity of an amount of or over CFA 1 million, the first stage consist in obtaining from the SGS office in Dakar a preliminary Import Declaration Form. If applicable, the inspection is performed by the correspondent of SGS in the country of origin of the imported goods. Based on this inspection, SGS Senegal issues a Verification Certificate indicating that the value of the goods as verified or corrected by the correspondent. The verification certificate is given to the importer upon presentation of a final invoice.

258. Based on the Preliminary Import Declaration Form, the importer must carry the operation through a local bank. The bank issues foreign exchange documents (currency exchange authorization and attestation certifying that operation is performed through them) necessary for clearing the goods through the customs.

259. Upon arrival of the goods, customs clearance is performed by presenting to the Customs a file including : the Customs clearance form ; invoices ( good, shipping etc..) transportation documents; the Verification Certificate (if applicable) ; the Certificate of Origin authorization to sell the goods required for certain products ; foreign exchange documents ; and in some cases the Tax Exemption documents. It is compulsory to have the goods cleared by a customs

clearance agent for any transaction above CFA 100.000 CFA, which means for almost all imports.

## **Frame 5.1**

### **WAEMU and Customs Tariff reduction.**

In the framework of the West African Economic and Monetary Union (WAEMU), the maximum charge for entry duties will be 30% in the year 2000 at latest. In Senegal, law n° 98-36 of April 17, 1998 establishes rates for entry duties, the highest of which, including the 5 % stamp duty which will continue to be applied, is 30%.

- Category 1 ( 0 % customs duties) : capital goods, computer science and telematic equipment not produced locally, input for the primary sector ; priority products having a social, cultural or scientific nature.
- Category 2 (5 % customs duties) unprocessed raw materials, crude oil ; cereals for industrial use.
- Category 3 (10 % customs duties) : semi-finished consumer products : other inputs destined to industry, other cereals, commercial vehicles not made locally, diesel oil and fuel oil;
- Category 4 (20 % customs duties): final consumer products, other white oil products, capital goods and computer science and telematic equipment produced locally; other used second hand and new cars.

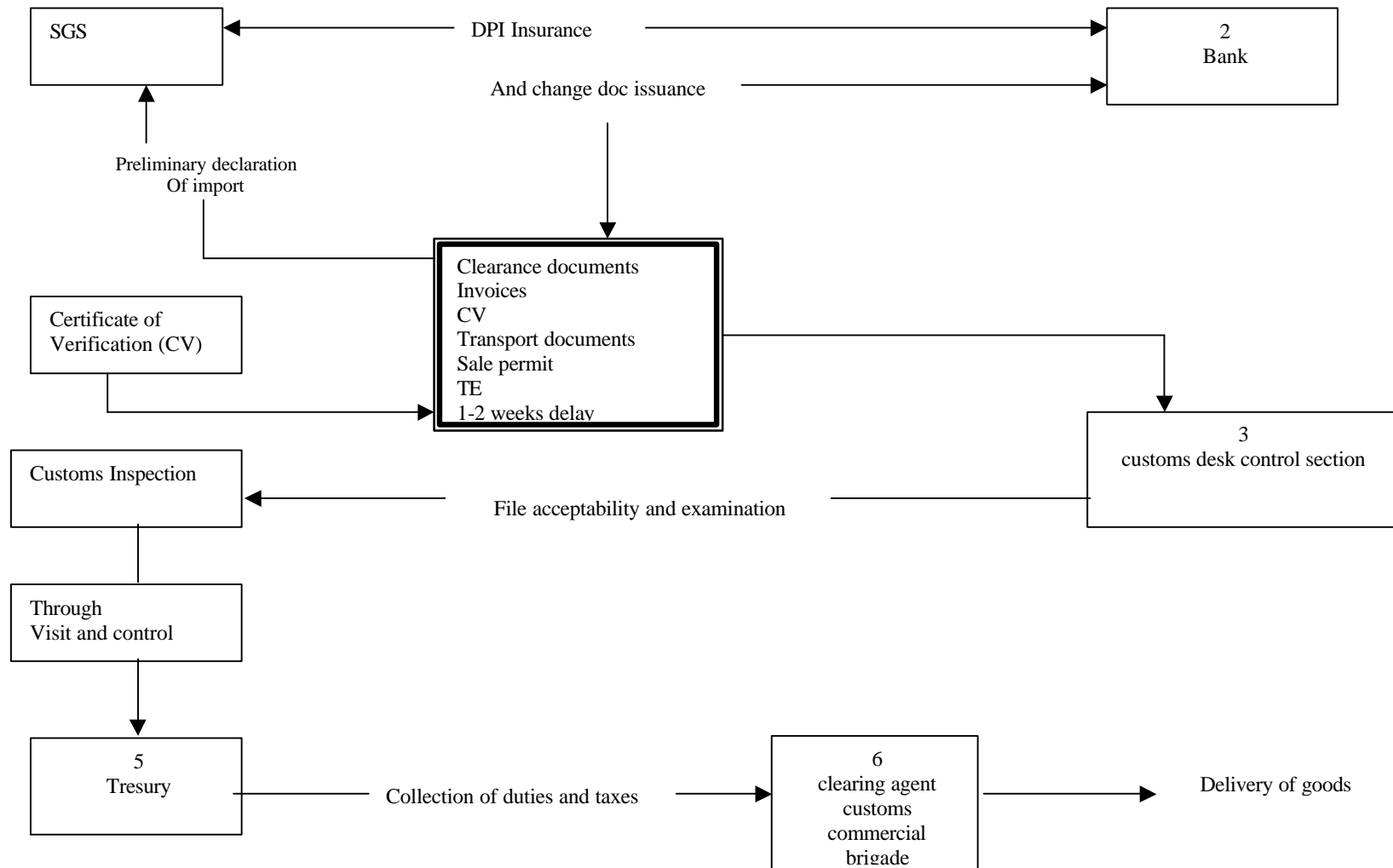
Capital goods are from now on tax free in this common tax system, which means -and consequently makes unnecessary- the advantages of the Investment Code for this type of goods.

260. Clearing goods through customs is a complex process that cannot be detailed here. Whatever the means of transportation used, it includes the four main stages :

- Passing through the desk examination section which includes checking if the operation is legally " doable" , that is to say first checking if all the required papers are available. This first stage is normally fast (few hours maximum) especially because all the elements necessary for clearing goods have already been keyed in the customs Electronic System (Gainde) by the Customs Clearing Agent.

- The inspection which consist in having a customs Inspector verify all the documents 0 for clearing the goods At this point, the Inspector may authorize to free the goods based on the conformity of documents. If this procedure is not adopted, physical inspection of the goods may be ordered. This inspections may be performed in a day.
- Payment of the taxes and duties to Treasury. This is perfirmed at the Tax Cashier Office located in the harbor and Airport of Dakar. This is a cause of delay and may take up to 2 days.
- Taking out the cleared goods involves a series of checks (accounting, warehouse, etc...) involving the clearing Agent and the Commercial Brigade of the Customs Office. This phase may take up to 2 days.

**Figure 5.1 Importing Procedures**



261. All together, the procedure for clearing goods (without mentioning the delivery of additional documents such as Tax Exemptions or Permits to import specific goods) may take according to an optimistic estimate, one week.

262. In addition to the procedures necessary for clearing imported goods, it is very important to disseminate tariff information among the business community for more transparency in the Customs operations. It seems that the internal documents of the customs relating to the change of tariff classification for certain products are not made public as regularly and as quickly as it should be, even for Professional Clearing Agents.

### Analysis

263. Despite the progress made with the introduction of the Gainde System in 1990, many studies and the majority of observers believe that procedures for clearing goods could be improved in two main areas : (i) The whole process should be faster. For instance the Customs continue to check and double check the acceptability of an operation. First electronically when the data is keyed in by the Clearing Agent in the Gainde System, and a second time manually when the hard copy file is transmitted.

Similarly, the payment of taxes at the Treasury is a frequent source of delays. In general, much information requested and considerable paperwork are requested. (ii) A better circulation of information on customs tariff is necessary in order to improve import operations and the *ex ante* evaluation of projects.

264. In addition, there is a crucial phase of the procedure that business people continue to criticize: the inspections. The Customs Officer may correct the value of the goods. It seems that at this point, importers continue to suffer from arbitrary measures. Sometimes, multiples inspections are done according to the information gathered by the mission, and they often lead to a significant correction of ( threat of correction) of the value of goods<sup>(12)</sup>. These measures are often taken by a distinct department in the Customs Office which implies that a better coordination of the areas of competence within the Customs Office seems necessary.

265. In this perspective, it seems that the IVP is not satisfactory for the Customs Office which often questions the values given by SGS. The importer too are not satisfied by the fact that the values given by SGS can be modified by the Customs Office without any possibility of appeal ( see note below) and therefore, question the utility of SGS itself. The Customs are not bound by the Verification Certificates issued by SGS and in reality use them as a base to determine a minimum value.

266. *Administrative appeals.* The frequent litigations between importers and the Customs can only be appealed within the Customs Administration itself. The Customs regulations and practices imply that a importer who rejects the decision of the Customs must first of all make appeals to the various levels of hierarchy within the Customs, and in addition, settle the

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12. It is understood that *ex post* surprise controls, within the area of jurisdiction of the Customs will become common among customs officers throughout the world (as is the case in Europe for example). They should eventually *replace* the controls made at the boundaries. However, the systematic association of the *ex ante* classical control with the *ex post* control is unacceptable.

amounts charged by the Customs before making an appeal to an independent body. For example, an importer who objects to the value of an import through the IVP system must first of all accept that he/she has violated the law before it is possible to have the case examined by the follow-up Committee of the IVP.

#### Recommendations.

267. Globalization trends in business require efficient Customs services that contribute to the competitiveness of countries. In order to improve Senegal's competitiveness, it is important that the Customs procedure be reformed in order to (i) reduce to its minimum limit the individual discretionary power of Customs Officers (ii) accelerate the clearing procedures, (iii) reduce frauds (iv) maximize customs revenues by improving the efficiency of procedures and of the Administration. The reform of Customs procedures would necessarily imply a deeper study than this one conducted by FIAS for this project. Therefore, FIAS cannot suggest recommendations for an effective reform of Customs procedures.

268. Priority should be given to eliminating the *multiplicity of verifications*. This effort should be done through a re-examination of the internal organization of the customs and that of the various services. Another possible way to combat multiple verifications that could also be used to combat other abuses, is to have an Internal Inspection Team, directly accountable to the highest level of the hierarchy.

269. *The role of SGS* is questioned by both the Customs and the importers. The occasional arbitrary value correction made by the Customs does not seem to have a significant impact on the IVP, since the Value Certificates of SGS are not binding for the customs. The Customs Office even questions the usefulness of the value certificate as a base for determining a minimum value, given the fact that many corrections are necessary. In general, because of the cost of operation for Senegal's Public Finances, it is recommended to reconsider the role of SGS in Senegal. This could be done through an impact study that would balance the cost of the program and its benefits for the Senegalese Economy.

270. *Trade Point Senegal (TPS)*. This is a promising initiative of the government that may solve many of the above mentioned problems, especially the repetitiveness and security for transmitting transaction information, and customs data in general. The TPS which should be operational soon, consists, as far as this study is concerned, in an electronic network linking the main actors in external trade, that is to say the Customs, Treasury, the clearing agents, banks, insurance companies, the Port and Airport of Dakar. Moreover, this network (intranet) which is based on Internet technologies, will be accessible from any computer connected to the network (including from abroad). This project is a move in the right direction to improve external trade procedures. It is recommended that the government continue to support this project and to encourage professionals to pay attention to the launching of the project.

271. *Administrative appeals* : The establishment of the true administrative appeal system might be a decisive step towards a more transparency in customs operations. It will in addition, reinforce the credibility of the administrative and human resources reforms that the general Customs Office wishes to implement. It is therefore suggested to examine the possibility of creating an appeal system which is truly independent from the organization against which the appeal is made.

## D. Exemptions

### **Office of Tax Exemptions**

Bureau des Régimes Economiques et Particuliers (BREP)

Customs Department

Tel : (221) 821.89.73

Contact Mr Diallo Kane, Director

272. This procedure is relevant in the cases of goods that can be imported duty-free. As mentioned earlier, an SGS inspection is not required for these imports. However, it is necessary to obtain from the Senegalese Customs a tax exemption document called Exemption Title (TE) for each transaction. The procedure is as follows : (i) The request for exemption is made by filling out a TE form. This can be done by the applicant or his/her agent. The form is submitted to the Tax Exemption Office (BREP) together with a list of approved items (Guichet Unique) and validated by the One-Stop-Shop according to the procedure described in chapter II. (ii) After it is circulated at the BREP (reception, Director's office, Head of Bureau , etc.), the request is transmitted to the BREP's " bureau of franchises" which has already received from the One-Stop-Shop a list of all the goods authorized to be imported tax-free. The items on the application documents are compared with those on the list provided by the One-Stop-Shop to make sure they are in conformity before the exemption is granted. (iii) It is then signed by the Director of the BREP and given to the Beneficiary.

273. Tax exemptions are valid for six months. The Bureau of Franchise has only one employee and all requests are treated manually. According to the information provided to this mission, Tax Exemption Authorization may take up to one week.

### Analysis

274. Today, most capital goods are duty free in accordance with the Common Entry Duties System (see 5.1). Approvals for Tax Exemption are therefore only useful for imports of inputs destined to companies operated out of the Industrial Free Zone and Free points.

275. Finally, this rather long procedure, does not lead to any new administrative decision. It only consists in formalizing an authorization already given by the Investment Code.

### Recommendations

276. It is recommended in Chapter I to reduce to its minimum the scope of the special system in the Investment Code. If this recommendation is implemented the exemption system for inputs will disappear. Once the duty free system for capital goods becomes obsolete (since the Common Tariff authorizes the importation of these goods free of tax), TEs will no longer be of any use and should be eliminated. In case the authorities chose to maintain the possibility of an exemption regime for inputs of companies outside Free Zone and Free Points, it would be recommended that, to avoid duplications in the treatment of information by both the One-Stop-Shop and the Customs Office, this exemption system be examined by the Customs only without any intervention of the One-Stop-Shop.



E. Internal Commerce.

**Department of Internal Commerce**

(Direction du Commerce Intérieur)

Ministry of Commerce and Handicrafts

Tel : (221) 822.91.09

Contact Mr Mamour Niang, Deputy Director

277. *Prices.* Since 1994 <sup>(13)</sup>, most prices are freely determined through the competition of market forces. State-controlled prices can be divided in 2 categories :

- The approved prices concern the pharmaceutical products and the services provided by external trade auxiliary workers (clearing agents; carriers etc.). These prices can be changed through " revision request" that may submitted from time to time to the Department of Internal Trade. These request are formulated by the employer's association on the relevant areas and are often accepted by authorities. In the case of pharmaceutical products, the request are jointly examined with the Ministry of Health.
- Products subject to taxation are domestic gas, charcoal, water electricity, telecommunications, hospital services, hydrocarbons. Taxed products are more strictly controlled and their prices are decided by the authorities. No procedure to request a change of prices is envisioned for this category. For hydrocarbons for example, prices are jointly determined by the Department of Internal Commerce and the Ministry of Energy, every four weeks and published in the State Legal Gazette.

278. *Sales authorization.* Some products can only be sold if it is approved for this purpose. This authorization is required for imported items (and it is part of the documents asked by the customs for clearing them). They include: food products, measurement instruments:

- Importations of new food products are subject to a " Foodstuff Declaration" (see form in annex) to the Ministry of Internal Trade, Department of Quality Control and Metrology<sup>(14)</sup>. This requirement normally applies to processed food products only, not to primary products. The declaration must be submitted with a sample of the product in the packing in which it will be sold, plus an invoice of the exporter and a certificate of analysis delivered by a foreign laboratory. If the products are new in Senegal but well known abroad, the authorization may be granted without any laboratory expertise being ordered by the Department of Internal Commerce. For the other products, the Department Laboratory performs an examination and an approval is stamped on the request form. The procedure takes normally less than ten working days. This authorization procedure is also applicable in principle to locally processed or manufactured food products. But in practice, according to the information supplied by the authorities to the mission, a declaration to the Department with a sample of the product and a laboratory certificate are sufficient.

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13 Law 94-63 of August 22, 1994 completed by the 95-77 application decree.

14 The Department was organised, and that is the reason why it has been the responsibility of the Quality Control Department since 1999

- In order to maintain uniform standards in internal trade the importation of instruments of measurement must be authorised by the Department of Internal Trade (except for water and electricity meters). First an authorization is granted based on documents supplied with a request to DCQM, and an inspection is made during the Customs clearing process. This authorization applies mainly to scales used in internal trade, gasoline pumps, and industrial scales for commercial vehicles.

### Analysis

279. Price control for products that have a strong impact on public health, for instance, water, pharmaceutical products, hospital services or products provided by monopolies or oligopolies (telecommunications, electricity) is legitimate. This is not however, the case for all targeted products. Moreover, the cost of some products are directly linked to the fluctuations of the international market (for example oil products).

280. *Sales Authorization* . Because the main reason for this authorization is the need to protect public health, there seems to be a contradiction between the control on imported products and the less stringent control on locally manufactured products. A priori, it is difficult to understand why the products manufactured abroad would potentially be more dangerous for the consumers than those produced locally. In actual fact, it should be concluded that the sales authorization is primarily for protecting local production against imports rather than being a quality control measure.

281. It is recommended to examine the elimination of all price controls on goods that do not have an impact on public health, and which are provided under competition: services of carrier auxiliaries, hydrocarbons, gas etc..

282. It is advised to apply to locally made products the same quality control standards used for imported products, that is to say submit them to the same quality control before they are put on the market.

## F. Labor Regulations

### **Department of Labor and Social Security**

(Direction Générale du Travail et de la Sécurité Sociale)

Ministry of Labor and Employment

BP : 4007

Dakar

Tel : (221) 823.59.08

Contact : Ibrahima Cissé Hanne

### **Labor Inspection of Dakar**

(Inspection du Travail de Dakar)

Ministry of Labor and Employment

18, Rue Ramez Bourgi

Dakar

Tel : (221) 822.08.69

Contact : Mr Harouna Aby Ly, Head of Statistics and Labor

283. The Labor Code of December 1, 1997 (law n° 97 -17 ) introduces significant flexibility in employment conditions in Senegal. The changes brought about relate to the formalities for hiring and firing employees..

284. *Hiring procedures* : In addition to the declaration of establishment that is made when creating a company , (cf Chapter I), employers are required to declare every employee hired. This is know as the " Declarations of workers movements". (see forms in the annexe). This form is to be made in 6 copies ( Labor Inspection, Statistics, IPRES pension Fund, Social Security Office, employer, worker). The employer himself is required to deliver a copy to each recipient . For the employment that require the worker to move away from his/ her place of residence (expatriates in particular ), the contract after a medical visit of the employee, must be stamped and endorsed by writting by the General Labor Office and the Social Security Service. For employees hiried in their place of residence, no authorization is necessary.

285. The use of personal services contracts for a limited time is more flexible, since it is now "extended to workers of companies operated in sectors where it was standard practice not to use personal services contract for unlimited time, due to the temporary nature of the activites performed" . (Art L 43 of the Labor Code). Despite possible difficulties in the interpretation of this provision, the Labor Code allows more flexibility in employment through the use of personal services contracts for a given period of time.

286. *Salaries*. Salaries are still subject to minimum level guaranteed, determined in the private sector by collective bargaining. These minimum salaris are periodically renegotiated by trade uniosn and employers' associations. In addition, there is a minimum inter professional guaranteed salary determined by decree of the President of the Republic. It is currently 209.10 CFA per hour (September 1998).

287. *Firing*. The Labor Code confirms the elimination of the preliminary authorization that used to be required before an employer can lay off employees. The stages to be followed in case of lay off are:

- Examine with employees' representatives alternative solutions prior to envisioning a reduction of force(for example, reduction of work time etc...).
- Notify the Labor Inspector for a mediation when an agreement has not been reached.;
- If 15 days after this notification, no alternative solution has been found, the employees may then prioritize the list of employees to be laid off and communicate it to the employees representatives;
- Seven days later, the employer calls the representatives to receive their opinion and suggestions.
- Upon completion fo this meeting, the employer can make the decision to fire but it is compulsory to give notification.<sup>(15)</sup>
- Concerning the employees' presentatives and only for this category of workers , it is mandatory to have an authorization of the Labor Inspector before firing them..

- Communicate to the Labor Inspector the list of fired employees and the minutes of the meeting with the employees' representatives.

### Analysis

288. *Hiring.* The Labor Office does not seem to give much importance to the declaration which should be made each time an employee is hired. It is rather the other entities such as the IPRES Pension Fund and the Social Security Service (CSS) that need to be notified of the recruitment of new employees. The Labor Office does not provide services in this respect: it is unfortunate that the employer is in charge of delivering the declaration forms to the various offices.

289. The requirement of an authorization for contracting expatriates is not very clear. To submit the contract of expatriates to a preliminary authorization is not a positive contribution towards the promotion of foreign investments.

290. *Salaries.* In general, minimum salaries do not seem to bother companies which usually offer salaries significantly higher than this minima.

291. *Termination.* Since 1994 when the New Labor Code became effective, termination procedures have been seriously improved with more flexibility in termination procedures and therefore a better employment policy. Provided that they follow the procedures described above, employers can now adjust their labor charges to the level of orders received. The minimum period of 3 weeks required before terminating an employee's (who is not a staff representative) contract seems reasonable. It does not also seem excessive to give additional protection to staff representatives who are naturally more vulnerable in conflicts of interests with the employer.

### Recommendations

292. It is suggested to eliminate the authorization for expatriated workers and apply them a regular procedure, that is to say the non requirement of any form of preliminary authorization.

#### G. Fiscal Discharge Attestation

#### **Tax Office**

(Direction des Impôts)

BP : 1561

Dakar

Tel : (221) 823.34.34

293. The administrative contract certificate (see annex), also known as "Fiscal Discharge Certificate"<sup>(16)</sup> is a document required in many procedures. As indicated in its official

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15. The notification period as defined in the collective Interprofessional Convention of May 27, 1982 is one month for regular employees with 5 year seniority minimum in the company and three months for executives. These rules are the same as in France.

designation, it is necessary when bidding for public contracts, or when renewing an Import - Export Card. Its role is to show that the company has paid all taxes and fiscal charges due. It is valid for a period of 3 months and costs CFA 1,000.

294. The high cost when requesting this document is the fact that it is necessary to have about 9 different signatures, that the company must request itself:

- The collector of indirect taxes (VAT);
- The indirect tax income officer, in charge of collecting the amounts due after tax adjustments;
- The inspector in charge of computing the tax due by the company;
- The controller in charge of business taxes;
- The head of the tax service center which has jurisdiction over the taxpayer;
- The signature of the tax collector, which is obtained only after that of the indirect tax collector, the collector of municipal taxes (garbage collection tax etc..) and the collector of taxes withheld from salaries, i.e. altogether four other signatures.

295. On average and according to the information received by the mission, a company that has complied with all the rules can obtain the Tax Discharge Certificate in two days.

### Analysis

296. The tax certificate is a demanding procedure and it is not understandable why the company has to request all the 9 signatures. And some of these signatures seem rather redundant for example those of the collector of indirect taxes and of the Inspector in charge of the company's taxation.

297. It should be noted that this procedure is useful for recovering taxes. Indeed, many taxpayers pay their taxes when they need this document. However, as a tool to help collect taxes it is only efficient with companies in the formal economy. It does not provide incentives for companies in the informal sector to regularize their taxes. Business in the informal sector seldom needs that document that they do not use in any case. And it should be noted that the real issue is to bring the companies in the informal sector to pay their taxes. To this end, requiring the tax certificate seems to be an inefficient way and may be even counter-productive because it adds to administrative costs.

### Recommendations

298. Given the role played by the tax certificate, despite all difficulties, in the recovering of taxes in the formal sector, it is not advisable to eliminate it in the immediate future. However, in the long run, the tax administration should recover taxes independently and the discharge certificate would no longer be used for procedures that have nothing to do with fiscal issues (for example the import-export card, etc..) The role of the tax certificate as presently used should be gradually abolished.

299. In the mean time, it is necessary to simplify its issuance. This could be achieved by eliminating some of the signatures required and by centralizing the information within the Tax Department.

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16 The tax discharge certificate itself is only issued when a company is definitely out of business.

**Table 5.2**

**OPERATIONS PROCEDURES – SUMMARY**

<b>Institution</b>	<b>Formality</b>	<b>Constraint</b>	<b>Recommendation</b>
Department of Current and Credit	Tax Transfers outside CFA zone Preliminary authorization for advance payments Preliminary authorization for direct investment Preliminary authorization for profits	Delays Discretion Cost of transactions	Eliminate costs on transfers Eliminate preliminary authorization
Department of External Trade	Import – Export Card	Unnecessary procedure	Eliminate
Department of External trade Department of Customs	Clearing imports	Sloz procedures Multiple inspections Discretion Arbitrage value determination Multiple value setting	Asses role of SGS Improve customs procedures Trade point Independant Administrative Appeal
Department of Customs	Tax exemptions	Duplication ( with One Shop Shop) Reduce usefulness	Eliminate price regulation Apply the same standards to all
Inspection of Labor	Preliminary authorization for expatriates	Unnecessary control	Eliminate

## CHAPTER V

### CONCLUSION

300. This report has highlighted the procedures to be undertaken by investors who wish to establish themselves and carry out operations in Senegal. It has attempted to identify the obstacles and bottlenecks that create unjustified delays and make investors postpone or abandon their investment projects in Senegal. These obstacles increase uncertainties and distortions around investment. The analysis focussed on 31 agencies and Government services as well as 23 district procedures. When globally analysed, the system is complicated and cumbersome for companies that must find their way in this maze of procedures and for the government that must see that rules and regulations are respected. International experience has shown that that number of measures can be adopted to improve such as system, and many of those measures could be adopted in Senegal as suggested below:

301. The initial measure should be to establish a candid and open dialogue between the services involved, the private sector and the Government. The analysis hereby presented could serve as a base for defining priorities and establishing an action plan. Such a dialogue should start during the workshop that will follow the distribution of this report, but it should necessary be followed up over time. In many other countries, such a workshop has allowed to reach a consensus on actions to be taken in the short -term and to agree on future efforts that should be pursued by various services.

302. In order to simplify the procedures and to implement successfully the suggested reforms, it is vital to fulfil a number of conditions from the start. These conditions may be summerized as follows:

- Political support at the highest level. Given the fact that many government services are involved, it is indispensable to have a strong and clear statement from the Political authorities calling for a rationalization of administrative procedures related to investment. Such a statement should facilitate collaboration and reduce the risk of seeing some civil servants protect their " turf" through the use of their discretionary power.
- An adequate Institutional Structure: Many countries have set up working groups, sometimes informal ones, in order to monitor the progress of their reform initiatives overtime. for example, " the Gateway Secretariat" in Ghana, is a small and informal group that relied on the participation of private sector representatives to lift the obtacles around private investment and to establish Ghana as regional hub for investment and international trade. Other countries have used existing structures such as inter- ministerial councils to follow up the implementation of reforms. In Senegal, the authorities have yet to define the nature of the structures that will be adopted. The latter should take into account priorities defined in the report and existing structures.
- The Direct involvement of every service. Reforms will not be successful if imposed from outside. Every service must fully participate in the implementation of these measures. The must take responsibility in the process. In many cases, it will involve the definition of specific programs with objectives and performances to be achieved over a period of time.

- Pilot-projects support. Some services will respond more promptly and more rapidly to criticisms made in this report. It is important that their efforts be supported by adequate financial and human resources so that they can improve their performances as quickly as possible. Their success would serve as example and should encourage other to follow the same pattern

- An appropriate use of external resources. There are some problems identified in this report whose solutions will require specific and technical expertise. This expertise can be brought to services that have demonstrated greatest motivation in favor of reforms, according to arguments developed above, and by a selective use of aid programs. In addition to technical support, some agencies will also need equipment and modern tools in order to improve their performances.

303. Senegal is defining a new strategy for the development of its private sector, this strategy will be discussed by a forum to be held in spring 1999. Results presented in this report may contribute to the design of this strategy, because they illustrate the administrative difficulties faced by foreign investors in the country. These difficulties have an impact on the private sector's decisions to invest and this is the reason why their solution is a key element in any strategy. This forum should also serve as a basis for consensus or immediate reforms to be made and determine the direction to be taken. Its success would be crucial to show initial political support in favor of reforms and motivate services and agencies to take the necessary action. Actions to be taken can be discussed in detail in future meetings.

304. Annex A gives an account of this mission results, reporting seminar to both the public and private sectors on February 8 -9, 1999 in Dakar. A summary of the discussion of recommendations proposed in this study are included.



**ANNEX A**

ACCOUNT OF FEBRUARY 8 - 9

RESULTS REPORTING SEMINAR

# **FIAS**

**SENEGAL**

**INVESTOR'S ROAD MAP**

**RESULTS REPORTING SEMINAR**

February 8-9, 999

**Minutes**

**Foreign Investment Advisory Service**  
Joint Service of the International Finance Corporation (IFC)  
and  
The World Bank (IBRD)

1. The results reporting seminar of FIAS on the Roadmap of the Investor in Senegal was held on February 8-9, 1999 at hotel Novotel in Dakar under the auspices of the Minister of Economy, Finance and Plan of Senegal represented by his cabinet Director. The list of participants is attached. The organizers of this seminar (Ministry of Economy, Finance and Plan, Economic Policy Unit) and the FIAS team would like to express their gratitude to the participants for the lively and extremely constructive discussions. The seminar and the preparation of this report were funded by USAID and FIAS.
2. The objective of the seminar was to present to the Government, to the private sector representatives, and to development partners, the conclusions of the FIAS report (The Report) on road map of the investor in Senegal, and especially to have their reactions and suggestions on the general theme of the seminar and on the report -procedures related to investment and operations in Senegal. It should be noted that a consensus was reached among participants, both in public and private sectors, on the excessive number of procedures imposed to investors, the complexity and sometimes lack of transparency which were recognized as being factors that increase the administrative cost of business, cause excessive delays and create uncertainties that are detrimental to private investment in Senegal.
3. As for the measure to be adopted to solve this situation, the document presents the discussions while attempting to the emphasis on the consensus reached on some specific recommendations, but also on the diversity of opinions expressed when a consensus was not possible.
4. The structure of this account is by and large the same as the one followed in the Report and the seminar itself. Are successively examined (i): the general procedures; (ii) special licences ;(iii) land access and site development ; (iv) operation procedures. For each heading, there is a table summerizing the various opinions expressed. Finally, it is indicated what should be the next stages for defining and implementing recommendations. 1

## **1. General procedures**

5. In general, this first group of recommendations were greeted by a large consensus among participants, both concerning the Investment Code and the establishment of companies. Moreover, new recommendations were made to complete these proposed by FIAS (cf below)
6. *Investment Code.* The recommendation made in paragraph 3.2 of the report (change from a tax exemption system for investment to a common incentive regime without selection, or authorization of projects by agencies) was in general approved by participants. After recalling that it was important to understand the history of the Investment Code and the One-Stop-Shop in order to fully understand their current operation, The authorities of the One-Stop-Shop indicated that the actual procedure is by its essence (requirement to assess projects) a great consumer of administrative resources. Authorities of the One-Stop-shop indicated that they are in favor of the abolition of the Investment Code for a common Incentive Regime. They also suggested that this idea should be proposed at a regional level, in the framework of the negotiations of WAEMU's future Investment Code.

7. Representatives of the private sector indicated that one of the main drawbacks of the assessment of projects by government agencies is, in addition to delays and preparations costs, risk to disclose confidential commercial information.

8. The head of the One-Stop-Shop indicated that they are for a total elimination of entry duties and VAT on imported capital goods. The Tax department argued that VAT was recoverable and it seemed difficult to justify its elimination on imported capital goods since it has a negligible impact for investors. The Head of the One-Stop-Shop recalled however, that the current Investment Code grants VAT exemption for imported goods.

9. *Company incorporation.* All participants wished to see the procedures of creating companies simplified. The recommendations in paragraph 48 of the report proposing this measure did not create any particular problem for participants.

10. The recommendations of paragraphs 67-70 were in general accepted by participants. There seemed to be a consensus on the fact that the registration of companies should be done as follows :

- One place. The future Center for the Establishment of Entreprises (CFE) appears as the best candidate for centralizing the various registration forms required from the creator of an enterprise. The head of the One-stop-Shop indicates however, that it would be important to familiarize oneself with the works of the Centralization Committee of the government that has studied since 1999 the way to simplify the registration of companies.
- One set of documents. The idea of having one set of documents seemed also to be supported by all the participants. It was suggested that a single place for registering and one set of documents go together and CFE was working on one set documents or even one document.
- One identification : Most participants were for the adoption of a single number to identify companies. The two numbers mentioned by participants were the NINEA and the Tax Identification Number. A set of technical problems were raised, especially the need to identify physical individuals for fiscal purposes and the need to have a country code in the framework of WAEMU. The NINEA number seemed to have the favor of the majority of participants; however, it was agreed that it is a technical issue that should be examined further.

11. It was noted by some members of the private sector that some regulations stemming from OHADA may have complicated the registration of companies. The example of the marriage certificate that is now required to have a business certificate has been quoted. The Tribunal Registry indicated however, that this additional requirement was justified by the risks that somebody may involuntarily run if married under the system of community of possessions.

12. The Tribunal Registry indicated that the computerization of business certificate and criminal records is necessary to speed up and make up more secure the registration of companies. Participants showed an appreciation of this point quoting the case of the fire that destroyed the archives of Dakar Tribunal.

13. The representative of notaries drew the attention of the audiences on an old issue that causes unnecessary delays: the registration of notarized deeds currently performed by government services. The representative indicated that the registration by notaries of simple cases such as the creation of companies could result in a significant reduction of delays and procedures. Indeed the registration of these cases by government agencies may take four to five days (and not 48 hours as indicated) and yet it could almost be instantaneous if done by notaries as it is the case in France. The Tax Administration indicated that the registration by notaries of their deeds would deprive the state of its prerogatives to control tax receipts. The representative of notaries, agreed that it was an important issue, but declared that such a control could be done in good conditions, for example by using registration machines specially designed for this purposes. It was agreed to pursue this specialized discussion important for accelerating the registration of companies- in as maller meeting.

General Procedures Tableau p 5 annexe

## II Specialized licenses

14. Specialized approvals have been less discussed than the procedures, since very few participants felt concerned about them. Some sectors( banks, insurances) have not been discussed, since The Report had very few recommendations in this respect.

15. *Mining.* The representative of the Ministry of Mining agreed with almost all recommendations made in paragraph 111 of the report, but added that a new Mining Code will soon be adopted, and most of these recommendation will become obsolete.

16. *Tourism.* Representatives of the private sector agreed with almost all recommendations made in paragraph 122 (simplification of sector licenses and processing by One Stop Shop). However, they added that these recommendations should be coupled with measure aiming at further development of the institutional capacities of the sectorial authorities. The weakness of such capacities, for instance lack of transportation for site visits, is the cause of important long delays in the issuance of licences. The case of a license that has been delayed for over a year was mentioned.

17. *Industry.* The representative of the Ministry of Industry and Mining believes that the industrial certificate that permits to benefit from a decrease in customs duties on inputs whose elimination is recommended in paragraph 131, should be maintained. The representative argues that such a decrease permits to stimulate local processing vis-a-vis the importation of finished products. FIAS noted that such a certificate goes against the governments' current policy of lowering customs tariff barriers especially in the context of regional integration. Moreover as indicated earlier, concerning the Investment Code, the trend should be more the adoption of a Common Incentive System rather than a proliferation of particular regimes.

18. *Technopole.* As regards the recommendations of paragraphs 144-146 that suggest the elimination of special tax advantages in the Technopole regime, The representative of the Technopole Managing Board observed that the Technopole gives the same tax and customs advantages as the Investment Code. However, the licenses issued to companies by the Technopole should not be confused with the approvals based on the Investment Code. Indeed, is it the nature of a company's activities that will determine if it will be accepted by the technopole (high technology) and not the assessment of its investment project.

19. *Fisheries.* The representative of the Minister of Fisheries indicated that the quota system proposed in paragraph 157 of the report which supposes sophisticated control tools, is not realistic given the current capacities of government services. They advocated the current licencing system coupled with a gradual increase in the government's institutional capacities.

20. *Leather and skins* The government believes that the export license the elimination of which is suggested in paragraph 164 of the Report, should be maintained because of the necessity to check the quality of exported products, and more specifically to prevent the deterioration of Senegal's image in the sector by that some exporters who are not concerned about quality. FIAS believes that since 80% of the production is exported, the export license does not permit a better quality control by the State than the sector license -f such a control were desirable. Indeed FIAS suggested that quality control by the private sector itself might contribute efficiently to maintain appropriate quality.

tableau p 8

Special licenses



### III. Land Access and Site Development

21. *Land access.* Concerning paragraph 189, the Government and the representative of notaries noted that two important points were not included in the FIAS recommendations :

- When the State wishes to transfer land from the national domain to it to the "private" domain in order to lease it to a private individual, it is necessary to register the land. This procedure which dates back from 1932, is very long and must be improved.
- The transfer of such lease from one private individual to another one is as complicated since in practice, it is necessary to cancel the first lease to conclude a new one. This procedure is extremely long and may take up to 7 years. The drawbacks of this long delay are considerable because there is in the meantime, legal gap which is extremely detrimental, especially when creditors have the lease as a guarantee.

22. In addition, the representative of the notaries recommended to eliminate the preliminary authorization required on all private land transactions with a value superior to 10 million CFA, or to raise this ceiling. The Tax Department seemed to agree with this recommendation.

23. *Site Development and Construction.* Recommendations made by FIAS in paragraph 202 (simplifying the Contruction Permit Procedures) were generally approved by participants who insisted on the need to make them operational by discussing in detail procedures, especially for the Construction Permit.

24. The representative of BIP enterprises also recommended the acceleration of the procedure relating to the delivery of conformity certificates required for constructions.

25. *Environmental Impact.* The main comment of participants on the recommendations (paragraph 210 of the report) was that the situation would greatly improve if there were laws for the enforcement of the articles of the Environment Code which dates from 1983.

26. *Electricity and Telecommunications.* For these two sectors, participants agreed with the recommendations of paragraph 217 and 222.

**Table 4.6**

**LAND ACCESS AND SITE DEVELOPMENT**

Institution	Formality	Constraint	Recommendation
Tax Department (Land Office / Land Registry Office)  SODIDA IFZ	Land acquisition <ul style="list-style-type: none"> <li>- from the State</li> <li>- from a private owner</li> <li>- Industrial land</li> <li>- Agricultural land</li> <li>- Industrial free zone</li> </ul>	Useless formalities Multiplicity of technical opinions Irregular meetings of technical Committees Slow procedures	Elimination of useless formalities Streamlining of the land Office internal procedures Creation of a land acquisition guide Increase periodicity of meetings of technical committees
Town planning Regional Service	Building permit	Lack of efficiency Deadlines Lack of communication between various services	Simplify the formalities Simplify the request file Reduction of the consultation process to a limited number of departments
Office of Listed Companies	Impact on the environment	Multiplicity of services for environmental approval Duplication of efforts	Reduction of services involved in the assessment process to
Public services  SENELEC SONATEL SDE ONAS Post Office	Connection to electricity, telephone, water, drainage systems; Post office mail box	Slow procedures for connecting to networks Frequent power outages Insufficient PO boxes	Accelerated liberalization / privatization Survey SDE customers Increase number of post office mail boxes

#### IV. Operations Procedures

27. *Foreign Currency Control.* Representatives of the Central Bank of West African States (BCEAO) and of the Department of Currency and Credit of the Senegalese Ministry of Finance noted that the regulations have changed since the interview of FIAS experts in September 1998 and therefore some of the recommendations which were pertinent then have become obsolete. These recommendations relate mainly to the preliminary authorization before transferring profits outside the Franc zone. Recommendations in paragraph 246 to 248 of the report take into account these adjustments.

28. The other recommendations were approved by the representatives of the Government, except the one about the 0.25% tax on transfers. It has been noted that this tax is both a negligible cost for investors and an insignificant revenue for the State; therefore it does, not constitute a constraint for economic activity. The FIAS team argued that if the benefits in terms of fiscal revenue are significant, its impact in investment may be more important than it seems at first sight because this kind of tax is often perceived as a very negative sign from the State to foreign investors in the context of international competition.

29. *Import-Export Card.* Participants had different opinions about this issue even after the discussions. The representative of the Ministry of Commerce acknowledged that the procedure for renewing the card is too heavy and suggests the elimination of the fiscal discharge certificate of the list of required documents. In addition, he argued that it is necessary to check the quality and seriousness of exporters in order to avoid some abuses that could be detrimental to the Senegalese production as a whole. In this respect, the Import Export Card enables to identify those who break the rules. The case of importers-exporters who have not requested a renewal of their cards or who have even requested the cancellation of their card can be given as examples of the usefulness of the card to monitor defaulting companies.

30. The Trade Point representative indicated that the customs statistics are available to permit the authorities to monitor potential problems in exports. The FIAS team argued that companies are in any case identified by the other means (NINEA etc..) that enable authorities to monitor their activities, in external commerce and elsewhere. It has also been noted that the initial delivery and the renewal of Import Export Cards are almost routine procedures for the authorities and that therefore, the use of the card as means of control is rather weak, or even inexistent. The case of cancellation mentioned above is rather an indication that it is possible to escape easily from a potential monitoring wished by authorities by just cancelling one's card and requesting a new one under a different company name.

31. *Imports and Exports/ Exemption.* Participants agreed that those procedures were essential in the operation in the companies. However the main government agency involved, the Customs Department, being absent during the discussions, it was agreed to postpone the discussion until a later stage in finalizing the recommendations.

32. As regards the recommendations in paragraph 269 (an impact study on the contribution of SGS), The representatives of the private sector as well as the FIAS teams expressed their difficulties in understanding the exact role of SGS since it is neither useful to the importer to determine the value of goods nor -apparently- to the Customs.

33. *Internal Trade.* As for the recommendations in paragraph 281 ( liberalization of prices),<sup>1</sup> the representatives of the government indicated that current reforms in the field of energy should be taken into account, especially the prices of hydrocarbons. The FIAS team agreed with the remark. This version of the report has therefore been modified to reflect the charges.

34. Regarding the difference in treatment of local products and foreign products, participants agreed that the recommendation should focuss on the principle of equal treatment for both types of products. The drafting of the report has been slightly modified to reflect the suggestions.

35. *Labor Regulations.* This is another issue on which further discussions will be needed to reach a consensus. The recommendations in paragraph 292 regarding the abolition of the preliminary "approval" of labor contracts for "expatriates" caused a heated discussion among participants with representatives of the Government arguing that this provision is necessary to keep control on the national labor market to enable nationals to have access to high level jobs vis-à-vis expatriates. Moreover, this provisions is useful to make sure that social charges are normally paid on expatriates' contracts.

36. A representative of the private sector indicated however that it is difficult to verify that the social charges are normally paid from the contract submitted to authorities, because there is always another contract signed under legislation of the country of origin of the expatriates. Members of FIAS confirmed this point and added that if this preliminary authorization on contracts has in this respect limited utility, it is on the contrary perceived as a negative signal on the Senegalese business environment. In general, FIAS agreed with the Government on the necessity to regulate the Labor market but suggested an *ex post* rather than an *es ante* approach.

37. *Fiscal Dischage Certificate.* Participants agreed on the recommendation in paragraph 298 and 299; but the main concerned agency was not present during the discussions (the Tax Department). Further discussions will be necessary at a later stage at the finalization of the recommendations.

## OPERATIONS PROCEDURES

<b>FIAS Initial Recommendations</b>	<b>Government views</b>	<b>Private sector views</b>	<b>FIAS views</b>	<b>Synthesis</b>
<i>Foreign currency exchange:</i> Various measures to liberalize change	Some of the measure have become obsolete since the time recommendations were made. The Government does not wish to eliminate the 0.25 % tax on transfer		Takes note of the nez recommends elimination of tax on transfers because its fiscal cost regulations. Still is negligible but it has a strong impact on foreign investors	New regulation integrated in the Report. Further discussions needed on transfer taxes
<i>Import – Export Card:</i> To eliminate	Does not agree. Need to control quality of exporter's behavior. Suggests to maintain card and eliminate fiscal discharge certificate during renewals		Suggest eliminate of card for lack of utility including in quality control	No consensus. New discussions needed.
<i>Import / export exemptions:</i> Accelerate clearing of goods; avoid multiple controls; study role of SGS; create administrative appeal system; eliminate tax exemptions	Main agency involved (Customs) absent during discussions	Private sector wonders actual role of SGS. The latter was not represented in the discussions		Given the absence of the Customs and the SGS, new discussions are necessary
<i>Internal trade:</i> liberalize prices of hydrocarbons; transport auxiliary services; equal treatment between local and foreign products.	Liberalization of hydrocarbons prices must be done in current energy sector reform. Agrees on principal of equal treatment of local and imported food products		Agrees on need to take into account energy sector reform	Reform of energy sector included in report
<i>Labor regulation:</i> Eliminate preliminary approval of expatriates' contracts	Does not agree, approval necessary to guarantee high level jobs for nationals		Authorization has a negative impact on business environment and not approved by investors	No consensus. Further discussions needed.
<i>Tax discharge certificate:</i> Eliminate in the future	Tax Department absent in discussions			Given the absence of Tax department, further discussions are needed.

## **V. Next stages**

38. Participants indicated that it is now up to the government to produce responses to the problems identified. Some of the measures, relatively simple, if viewed from the perspective of the investor, may request deep reforms of the pertinent agencies. These are for example the company registration procedures or import procedures. It appeared therefore important to the participants that these measures be taken within a large project with sufficient means with support at the highest level which is in any case indispensable for most recommendations. In addition, it is important to coordinate the implementation of these measures with other government actions in favor of the private sector.

39 A consensus was reached during the discussions about the necessity to have the recommendations of the report considered by the Government's Private Sector Development Program. A high level seminar on the Private Sector Development Strategy is scheduled for April 15, 1999, preceeded by two preparation workshops respectively on March 8, and 22, 1999. It is important that this report and the account of this seminar, be discussed in the workshops so that the seminar may benefit from the current discussions. It is recommended that fuure discussion on the finalizing and implementations of the recommendations be held in this framework.

40. Finally, it was suggested by FIAS that each agency or service may put together its own reform program based on the recommendations of the report or on the contrary, using other solutions for the problems identified. In this respect pilot-projects may be useful and may benefit from the support of donors. In addition, the follow up of these reforms must be centralized in a structure to be defined, probably as noted, in the general framework of the Government's Private Sector Development Program.



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